

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CRAIG CUNNINGHAM,

Plaintiff,

- vs -

Case No. 16-cv-761

MICHAEL MONTES,  
Tollfreezone.com, Inc.,  
Mydataguys.com, LLC,  
Podmusicgear.com, Inc.,  
Tollfreezone.com, Inc.,  
dba Docauditor.com,  
Tollfreezone.com, Inc.,  
dba Mobile Trackme,  
Emailmyvmail.com, Inc., and  
John and Jane Does 1-10,

Defendants.

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Deposition of MICHAEL J. MONTES,  
taken at the instance of the Plaintiff, under and  
pursuant to Federal Rule of Civil Procedure 30, before  
Sarah F. Pelletter, RPR, a Notary Public in and for the  
State of Wisconsin, at Axley Brynelson, LLP,  
Two East Mifflin Street, Suite 200, Madison, Wisconsin,  
on January 14, 2019, commencing at 9:55 a.m. and  
concluding at 1:36 p.m.

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A P P E A R A N C E S

LAW OFFICES OF TODD M. FRIEDMAN, by  
MR. DAVID B. LEVIN,  
333 Skokie Boulevard, Suite 103,  
Northbrook, Illinois 60062,  
appeared on behalf of the Plaintiff.

AXLEY BRYNELSON, LLP, by  
MR. KEVIN D. TROST,  
Two East Mifflin Street, Suite 200,  
Madison, Wisconsin 53703,  
appeared on behalf of the Defendants.

Also present: Craig R. Cunningham

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4			

6 (The original exhibits were attached to the original transcript and PDFs were provided to counsel)

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(The original transcript was filed with  
Mr. David B. Levin)

1 MICHAEL J. MONTES, called as a  
2 witness, being first duly sworn, testified on  
3 oath as follows:

4 EXAMINATION

09:55AM

5 BY MR. LEVIN:

6 Q Good morning. Could you please state your full  
7 name for the record.

8 A Michael James Montes.

9 Q And what is your date of birth, Mr. Montes?

09:55AM

10 A 5/14/1968.

11 Q What is your current home address?

12 A 135 Riverview Road, Fort Myers, Florida 33905.

13 Q Do you own or rent at that residence?

14 A Rent.

09:56AM

15 Q How long have you resided there?

16 A Since June of last year.

17 Q June of 2018?

18 A Uh-huh.

19 MR. TROST: Is that yes?

09:56AM

20 A Yes.

21 Q Have you ever given a deposition before?

22 A Yes.

23 Q How many times?

24 A Twice, I think.

09:56AM

25 Q Can you tell me what kind of cases those were?

1 A Well, one was a very similar case that  
2 Mr. Cunningham sent against me in Tennessee.

3 Q And what about the other one?

4 A The other one I don't remember, it was so long  
5 ago.

6 Q Approximately how long ago?

7 A Years. I don't even remember.

8 Q Do you remember what the deposition was about,  
9 what your --

10 A It was for a suit against a friend of mine in a  
11 lease issue.

12 Q So how were you involved in that case?

13 A I was on the corporate papers, so they wanted to  
14 ask me some questions.

15 Q Where was that case pending, in what state?

16 A Irvine, California, I think.

17 Q Do you know if it was in state court or federal  
18 court?

19 A I don't remember. It settled out, so it didn't  
20 matter.

21 Q Did that deposition have anything to do with your  
22 telemarketing businesses?

23 A No.

24 Q Okay. Well, if you've given a deposition before,  
25 you may have already heard some of what I'm going

1 to tell you. Your attorney might have already  
2 told you some of this, but just for the record, a  
3 few ground rules for today's deposition to  
4 hopefully make things go smoother for everybody.

09:58AM

5 So, first of all, it's important that we  
6 don't talk over each other. Please allow me to  
7 finish my questions before you begin to answer.  
8 It's to make sure that you are clear on exactly  
9 what I'm asking you, of course. And I will afford

09:58AM

10 you the same courtesy with your answers before I  
11 begin my next question. It's also very difficult  
12 for the court reporter to take things down if  
13 we're both talking over each other.

09:58AM

14 In addition, if you don't understand  
15 something I'm asking you, and you want me to  
16 repeat it or rephrase it in some way, I'm happy to  
17 try to do that for you, and/or we can have the  
18 court reporter read it back so, again, you're sure  
19 what you're being asked.

09:58AM

20 Please answer your questions out loud as  
21 opposed to nods of the head, and, as you just did,  
22 we can't use answers such as uh-huh or uh-uh. In  
23 normal conversation, it's very clear, and people  
24 are used to speaking like that, but we're trying  
25 to create a record. And so that it's clear, if

09:59AM

1 it's a yes-or-no question, please answer yes or  
2 no.

3 Also, if you need a break, feel free to ask,  
4 as long as there's no questions pending, or I may  
09:59AM 5 be in the middle of a line of questioning, I may  
6 want to finish up a couple more questions, but we  
7 can take a break at any time, if you need to.

8 Did you review any documents or records in  
9 preparing for your deposition today?

09:59AM 10 A I did.

11 Q What did you review?

12 A My last deposition.

13 Q Was that the one from the case in Tennessee?

14 A Correct.

09:59AM 15 Q Did you review anything else?

16 A No.

17 Q Other than your attorney, did you discuss this  
18 case with anybody before your deposition today?

19 A My wife.

09:59AM 20 Q In what context were you discussing it with your  
21 wife?

22 A My travel plans, letting her know I had to come  
23 give a deposition.

24 Q Do you believe she has any knowledge that's  
10:00AM 25 relevant to the allegations in this case?

1 A No.

2 Q Anyone else you've discussed the case with before  
3 your deposition today?

4 A Nope.

10:00AM 5 Q You mentioned that Mr. Cunningham had filed  
6 another lawsuit against you in Tennessee. Other  
7 than that case, have you ever been a party to a  
8 lawsuit before today -- before this case, excuse  
9 me?

10:00AM 10 A Evidently, a couple of states have sued me, but I  
11 wasn't a party to it.

12 Q Are those cases in Missouri and Mississippi?

13 A Correct.

14 Q Okay. We'll get to that in a little bit. Have  
10:01AM 15 you ever personally been a defendant in any other  
16 kind of lawsuit?

17 A No.

18 Q Have you ever been a party to a divorce  
19 proceeding?

10:01AM 20 A No.

21 Q Bankruptcy?

22 A Nope.

23 Q Have you ever been a plaintiff in a lawsuit; have  
24 you sued somebody to recover money?

10:01AM 25 A Never.



1 Q Other than the case you mentioned in Irvine,  
2 California, have you ever testified as a witness  
3 in any other lawsuit?

4 A No.

10:01AM

5 Q Have you ever been convicted of a felony?

6 A Nope.

7 Q Have you ever been convicted of any crimes  
8 involving dishonesty, such as theft, fraud,  
9 anything of that nature?

10:02AM

10 A No.

11 Q Are you under the influence of any alcohol or  
12 medications today that might affect your ability  
13 to answer my questions?

14 A No, sir.

10:02AM

15 Q What is the highest level of education that you've  
16 completed?

17 A Junior college.

18 Q Did you obtain any sort of degree?

19 A No.

10:02AM

20 Q Where did you attend junior college?

21 A Riverside Community College, in Riverside,  
22 California.

23 Q Are you currently employed by any companies or  
24 businesses?

10:03AM

25 A No.

1 Q You're in business for yourself?

2 A Yes.

3 Q Is your business incorporated or formed as an LLC?

4 A It's formed as an LLC.

10:03AM

5 Q What's the name of the company?

6 A MyAdGuys.com, LLC.

7 Q And under what state's laws was that LLC formed?

8 A Florida.

9 Q When was it formed?

10:03AM

10 A June of 2018.

11 Q And what sort of business is MyAdGuys.com?

12 A Hang on. Maybe it was June 2017. I'm not sure.

13 I'd have to look.

14 Q So what sort of business is MyAdGuys.com

10:04AM

15 A Advertising.

16 Q What sort of services do you provide?

17 A We provide SEO, telemarketing, town hall calls,  
18 billboards, mobile and stationary, printing, data,  
19 and -- what else do we do? There's a number of  
10:04AM 20 other things.

21 Q What do you mean by town hall calls?

22 A So we do a lot with politics, and if a politician  
23 wants to broadcast a town hall call, let's say  
24 that there's 1,000 people out there, and they've  
10:05AM 25 all signed up to hear this person speak, they can

1 call in to a phone number. The candidate can  
2 speak to them, and there will be an administrator  
3 alongside where the callers can actually also log  
4 in on a computer and email their questions to the  
10:05AM 5 proctor or the administrator, and that person will  
6 give -- will select the questions they want the  
7 candidate to answer and will give it to them, and  
8 then they can say it when they're speaking over  
9 the phone. So it's a virtual town hall meeting.

10:05AM 10 Q And you mentioned one of the services you provide  
11 being data. What did you mean by that  
12 specifically?

13 A So if a client wants to buy a database, whether  
14 they're going through us to print or to do  
10:05AM 15 telemarketing or whatever, it doesn't matter,  
16 we'll sell them a database from a number of  
17 sources. So if somebody calls me and says, Hey, I  
18 need a database of businesses that do marine  
19 products, well, I can go out and get a database of  
10:06AM 20 all those businesses that do marine products,  
21 whatever that is, and sell them that database at a  
22 rate per record.

23 Q And from where would you obtain that information?

24 A Gosh, there's about 50 sources, but we'll start at  
10:06AM 25 the top. I mean, I can get it from Experian,

1 TransUnion, Equifax. I can buy data from  
2 ListGIANT, a number of other sources, and broker  
3 those lists.

10:06AM

4 Q What sort of telemarketing services does  
5 MyAdGuys.com provide?

6 A We offer live telemarketing services, virtual  
7 telemarketing services with what's called AI. We  
8 offer robocalling. We offer ringless phone calls.  
9 We offer predictive dialing. That's about it.

10:07AM

10 Q Okay. So let's talk about each of those. When  
11 you say live versus virtual, what do you mean by  
12 the use of those two terms?

10:07AM

13 A So live is I can contract for you, if you want to  
14 call it a group of people, with a live  
15 telemarketer. So for a lot of our political  
16 people, they want an actual live person here in  
17 the United States to call out to their voter pool  
18 and ask for donations, doing it live. So we can  
19 do that. I can contract with one of our groups of  
20 live telemarketers here in the U.S. and let them  
21 know that I need this many calls being made to  
22 this database with this script.

10:08AM

23 And it can result in a number of things. It  
24 can result in those guys going to the candidate's  
25 website and doing the donation manually. It could

10:08AM

1 be them telling the person to go to the website to  
2 donate. Or it could be where they say, Thank you  
3 very much. Here is our text to this number, and  
4 you can donate that way. But there's a lot of  
10:08AM 5 ways to donate. At the end of the day, it's going  
6 to result in something, or they don't donate at  
7 all, but the live person is actually making the  
8 phone call for that candidate.

9 Q And how does that differ from a virtual  
10 telemarketer?

11 A So a virtual telemarketer is a lot cheaper, but it  
12 requires a lot of upfront setup, and what happens  
13 is, is we have a service in the Philippines, and  
14 what they'll do is they will call out, but instead  
10:08AM 15 of them speaking, based on the response of the  
16 recipient of the phone call, they will play a  
17 prerecorded message, and it says, Hi. How are you  
18 today? And if the person says fine, then that  
19 person in the Philippines will, then, click the  
10:09AM 20 next message that is appropriate. Or wherever  
21 they are. They may not be in the Philippines.  
22 But there's call centers around the world where  
23 they don't speak really good English, but they  
24 understand English, so the prerecorded calls are  
10:09AM 25 in English, and they're very audible. You can

1 hear them clear as a bell. So they play those in  
2 lieu of speaking.

3 Q Okay. And when you use the term *robocalling*, what  
4 do you mean when you use that term?

10:09AM

5 A So most of our politicians use robocalling, and  
6 what that is, is it's a prerecorded message that  
7 goes out to a recipient, usually their voter pool,  
8 and it says, Hey, I'm looking forward to your  
9 support, or Come out to our meeting this week and

10:10AM

10 hear me speak, or whatever the message is. And it  
11 could be left either on the answering machine or  
12 they play it to them live, but it's a prerecorded  
13 message that goes out.

14 Q Are those calls placed by somebody manually  
15 dialing, or how do those calls come to be placed?

10:10AM

16 A No. You load it into a robocalling system. We  
17 give the people, these guys an account, and  
18 they'll load their data and their -- they'll  
19 record their message and load their message, and  
10:10AM 20 they'll load their caller ID, and then they'll  
21 schedule the time for it automatically to be sent  
22 out, and based on their parameters, it may go to  
23 just a live person or just an answering machine or  
24 it may go to both.

10:11AM

25 Q So how are the phone numbers determined that are

1 being robocalled?

2 A The candidate will provide it. What they usually  
3 get -- or the customer, either way. They will get  
4 their own database, and they will install that  
10:11AM 5 database and upload it into our system.

6 Q And are those numbers being called one at a time?

7 A They're all one at a time, yeah. They don't call  
8 multiple times. Once a phone number in that list  
9 is used, it's burned. It becomes part of a

10:11AM 10 report, and it's no longer a dialable number in  
11 that list.

12 Q Sorry if that wasn't clear. That's not exactly  
13 what I meant. Are these numbers being called one  
14 at a time, or are multiple numbers from a list all  
10:11AM 15 being called at once?

16 A Oh, yeah, they're all being called at once.

17 Q And when the list is uploaded into the system, how  
18 is the order in which the numbers on that list get  
19 called, how is that order determined?

10:12AM 20 A The customer can choose to either load it without  
21 randomizing or they can randomize it. It's an  
22 option within our system.

23 Q So it can be either randomized from all the  
24 numbers in the list, or it would just go  
10:12AM 25 sequentially through the list?

1 A Correct.

2 Q And you also mentioned ringless calls?

3 A Yes.

4 Q What are ringless calls?

10:12AM 5 A That's a majority of our business now. Ringless  
6 is a great product. What it does is it will,  
7 server to server, go to the IP address affiliated  
8 with a cell phone number and drop the voicemail  
9 into the cell phone voicemail. So it's not a  
10 phone call.

11 Q So somebody gets a voicemail, but the phone never  
12 rang?

13 A Correct. You've probably gotten them.

14 Q And you also mentioned predictive dialing?

10:13AM 15 A Yes.

16 Q What do you mean when you use that term?

17 A So predictive dialing is a platform where if the  
18 customer has five people ready to make phone  
19 calls, but they don't want to hand dial every  
10:13AM 20 number, a predictive dialer will allow them to  
21 upload the list, and it will dial -- the system  
22 will dial a number or two at a time, and the  
23 telemarketer only has to sit there with the phone  
24 to their ear and the computer on.

10:13AM 25 They don't have to make any phone calls. The



1 predictive dialer will predictively dial that list  
2 of phone numbers at a slow enough pace so that  
3 they don't ring an extra person while the  
4 telemarketer is on the phone. It will stop  
10:14AM 5 dialing when that telemarketer achieves a phone  
6 call, a connected call, so the system doesn't burn  
7 through all your data. It stops when you're on  
8 the phone.

9 Q So what it's predicting is when someone is  
10:14AM 10 available to answer the call -- strike that. What  
11 it's predicting is when the telemarketer is  
12 available to take a call if somebody answers on  
13 the other end?

14 A Correct. But if that person is on the phone, the  
10:14AM 15 telemarketer, it will cease dial because it  
16 doesn't want to leave calls available to drop,  
17 because if no one is available to take that  
18 consumer's call, then they lose that prospect. So  
19 the system stops dialing as soon as the  
10:14AM 20 telemarketer is on the phone. Once that  
21 telemarketer terminates that call, then the system  
22 will pick back up and start calling again for  
23 them.

24 Q And that predictive nature is all done  
10:15AM 25 automatically through the programming in the

1 system?

2 A Correct.

3 Q What percentage of your business would you say is  
4 comprised of robocalling and predictive dialing?

10:15AM

5 A Currently, 90 percent of it is ringless calls,  
6 very little is robocalling. Most of our  
7 politicians are done.

8 Q Have you done more work with robocalling and  
9 predictive dialing in the past?

10:15AM

10 A This last political season, we did a lot.

11 Q So prior to forming MyAdGuys.com, LLC, did you  
12 operate under a different business name?

13 A We did.

14 Q And when you say *we* --

15 A Me.

16 Q -- someone other than you?

17 A No, just me.

18 Q Are you the 100 percent owner of MyAdGuys.com?

19 A I am.

10:16AM

20 Q Are there any other officers or members of that  
21 company?

22 A I'm it.

23 Q So prior to the existence of MyAdGuys.com, what  
24 was the business name that you operated under?

10:16AM

25 A We operated under TollFreeZone.com.

1 Q Was that an LLC?

2 A It was a C corp.

3 Q So it was TollFreeZone.com --

4 A Inc.

10:17AM 5 Q -- comma, Inc.? And under what state's laws was  
6 that formed?

7 A California.

8 Q Were there any other owners of that company  
9 besides yourself?

10:17AM 10 A No.

11 Q Any other officers?

12 A My wife was listed as the secretary.

13 Q What's your wife's name?

14 A Amy, A-m-y.

10:17AM 15 Q Amy Montes?

16 A Yes.

17 Q Does she reside with you in Fort Myers, Florida?

18 A She does.

19 Q Do you still own a house in Somerset, Wisconsin?

10:18AM 20 A I don't. A trust does. But yes, the trust still  
21 owns the house in Somerset.

22 Q A trust that was set up by whom?

23 A It was set up by my wife and I. But neither of us  
24 are the signers on it.

10:18AM 25 Q Are you trustees?

1 A Nope.

2 Q Beneficiaries?

3 A Nope.

4 Q Do you know who the beneficiaries and trustees of  
10:18AM 5 that trust are?

6 A Audrey Borger.

7 Q She's a beneficiary or trustee?

8 A She's a trustee.

9 Q Audrey Border?

10:18AM 10 A B-o-r-g-e-r.

11 Q Who is Audrey Borger?

12 A She is my daughter.

13 Q Who are the beneficiaries of that trust?

14 A I don't know. I don't know.

10:19AM 15 Q Do you ever reside in that home in Somerset,  
16 Wisconsin?

17 A Not anymore.

18 Q You and your wife live full-time in Florida?

19 A We do.

10:19AM 20 Q Does your son live in Florida with you?

21 A Yes.

22 Q And do you also own a home in San Juan Capistrano,  
23 California?

24 A Same thing, trust owns it.

10:19AM 25 Q Is it the same trust or a different one?

1 A Same trust.

2 Q Do you ever reside in that home in California?

3 A No.

4 Q When did you take up residence in Florida?

10:20AM 5 A Last June.

6 Q June of 2018?

7 A Yes.

8 Q Do you know who's living in the home in Somerset,  
9 Wisconsin?

10:20AM 10 A Currently, nobody.

11 Q Do you rent it out?

12 A Audrey had plans of renting it out, but it needs  
13 work.

14 Q What about the home in California; does anyone  
15 reside there?

10:20AM

16 A No.

17 Q Is that home rented out?

18 A It rents out by the month. So currently, nobody  
19 is there.

10:20AM 20 Q When did you form the TollFreeZone.com  
21 corporation?

22 A I don't remember. I want to say 2005, but I'm not  
23 sure.

24 Q And when did that corporation cease to exist?

10:21AM 25 A I don't remember.

1 Q Can you give me an approximate time frame?

2 A No. I don't remember.

3 Q Why did you cease operating as TollFreeZone.com  
4 and form the MyAdGuys.com, LLC?

10:21AM

5 A The state of Missouri got a judgment against  
6 TollFreeZone, and so we let it go.

7 Q Has the state of Missouri ever taken any actions  
8 to try to collect on that judgment, that --

9 A No.

10:22AM

10 Q -- you're aware of?

11 A Not that I'm aware of.

12 Q How much is that judgment?

13 A I don't remember off the top of my head.

14 (Exhibit No. 1 marked for  
15 identification)

10:22AM

16 Q Mr. Montes, I'm handing you what's been marked as  
17 Exhibit No. 1. Take a look at that and tell me if  
18 you've ever seen this before?

19 (Witness examines document)

10:23AM

20 A Oh, yes. I have seen this.

21 Q Okay. So this is I'll represent to you a subpoena  
22 that we issued in this case requesting that you  
23 produce certain documents and records here at the  
24 time of your deposition today. Did you bring any  
25 of these requested documents or records with you?

10:23AM

1 A No.

2 Q Do you intend to produce any of these documents or  
3 records that we've requested in this subpoena?

4 A I do not.

10:23AM

5 Q Okay. Why not?

6 MR. TROST: I think that calls for  
7 a legal answer. But to the extent you have a  
8 non-legal reason, you can feel free to voice  
9 it, if you so choose.

10:23AM

10 A Those are documents, in my opinion, that are  
11 fishing for new victims for Mr. Cunningham, and I  
12 refuse to give up information on my clients. They  
13 have nothing to do with this case.

14 Q Okay. We'll come back to this subpoena.

15 (Exhibit No. 2 marked for  
16 identification)

17 Q You've just been handed what's been marked as  
18 Exhibit 2. Do you recognize this?

19 A Yes.

10:24AM

20 Q And can you tell me what this is?

21 A Yeah. It's our signup form, and I believe it's  
22 our terms of lease.

23 Q Okay. Well, again, I'll represent to you that I  
24 printed this from the Autodialer123.com website.

10:25AM

25 The URL that's listed at the bottom of the first

1 page there is Autodialer123.com. Is that a URL  
2 that's owned by you?

3 A Yes.

4 Q Do you know if it's owned by you personally or one  
5 of your companies?

6 A It's just a website that -- I mean, I own the URL.

7 Q And MyAdGuys.com, LLC uses this website to sign up  
8 customers?

9 A Yes.

10 Q Did TollFreeZone.com use this website to sign up  
11 customers?

12 A It did.

13 Q How long have you had this website?

14 A I don't remember.

15 Q Can you give me an approximate time frame?

16 A No. I don't remember.

17 Q Do you have some documents or records somewhere  
18 that might tell you how long you've had this  
19 website?

20 A I would have to check with GoDaddy.

21 Q So you bought the URL through GoDaddy?

22 A Yes.

23 Q So what is this form used for on your website?

24 A If a client wants to get a dialer account, they  
25 can sign up.



1 Q Explain to me in a little more detail how that  
2 process works, please.

3 A So a customer wants to get a dialer account so  
4 they can use it for whatever they're using it for,  
10:26AM 5 and they fill out this information, and that gives  
6 me enough to go out and provision an account for  
7 that customer.

8 Q A little more than halfway down the page, there's  
9 a field that says *800Link Press 1 or Press 1*  
10:27AM 10 *number*. Could you explain to me what that means?

11 A So some of our customers use 800Link as a back  
12 end. So what they'll do is, if they're driving a  
13 message to another message, most of the time they  
14 use 800Link.

10:27AM 15 Q What is 800Link?

16 A So 800Link is a phone number -- they'll provide  
17 you -- if you are a customer and you want to put a  
18 back-end message out there, so somebody presses 1,  
19 they hear another message that drives them to  
10:27AM 20 either a donation site or whatever the case is,  
21 then what will happen is, is 800Link will  
22 provision them with a phone number that allows you  
23 to record a back-end message, so that when  
24 somebody presses 1, our system can transfer that  
10:28AM 25 number -- that person to that phone number, and

1 they can hear whatever message you want them to  
2 hear.

3 And 800Link is the predominant provider of  
4 that service. So we -- we're used to it, so  
10:28AM 5 that's what we do. We put it on there.

6 (Exhibit No. 3 marked for  
7 identification)

8 Q You've just been handed what has been marked as  
9 Exhibit 3. This is a document that we received in  
10:28AM 10 response to plaintiff's request for production.  
11 Is this document the same as the terms of use that  
12 are listed on Exhibit 2?

13 A I think it would be, but I think this one says  
14 TFZ, our old name, and I think it's been since  
10:29AM 15 changed to MyAdGuys.

16 Q You provided this document to your attorney to  
17 turn over to us?

18 A I don't remember if I did or didn't.

19 Q Towards the bottom of page 2 of Exhibit 2, there's  
10:29AM 20 a section No. 5, *Limitation of Liability*?

21 A Okay.

22 Q To your knowledge, have any lawsuits ever been  
23 filed against MyAdGuys.com, LLC?

24 A No. None.

10:30AM 25 Q And then, on the third page, under the section

1       *Rules and Regulations*, there's a paragraph that  
2       begins *Subscriber is aware, knows, and understands*  
3       *the rules and regulations with regard to the*  
4       *Federal Trade Commission and the Federal*  
5       *Communications Commission National Do Not Call*  
6       *Registry Rules and Regulations*, et cetera.

7               What was the purpose of including this  
8       language in your terms of use?

9       A   Well, the liability falls from the -- on to the  
10       clients. They're the ones making the phone calls.  
11       So anything they do, they're liable for. We don't  
12       absorb any liability.

13       Q   But you provide a system through which those calls  
14       are placed, correct?

15       A   Correct.

16       Q   So the next paragraph, *Subscriber agrees it is the*  
17       *sole -- I'm sorry -- subscriber is aware or knows*  
18       *and understands the anti-solicitation provisions*  
19       *of the Federal Telephone Consumer Protection Act*  
20       *of 1991*, et cetera. What's the purpose of that  
21       paragraph?

22       A   That they agree that they understand the rules.

23       Q   Do you believe that including this language in  
24       your terms of use absolves you of any liability  
25       under circumstances similar to what's been alleged

1 in this case?

2 A I do.

3 Q And do all of your clients acknowledge consent to  
4 these terms of use before you will begin to work  
10:32AM 5 with them?

6 A Yeah. They -- I believe it says here that they  
7 accept it.

8 Q Do you ever accept telemarketing business without  
9 somebody filling out this form and agreeing to the  
10:32AM 10 terms of use on the website?

11 A No.

12 Q Do you ever enter into formal written contracts  
13 with any of your clients?

14 A No.

10:32AM 15 Q Never take any business just by verbal requests?

16 A For politicians we do.

17 Q What is the distinction whether they're a  
18 politician or not?

19 A Politicians are exempt from any of these laws.

20 (Exhibit No. 4 marked for  
21 identification)

22 Q You're being handed now what's been marked as  
23 Exhibit 4. I'll represent to you this is a print  
24 screen I took on my computer last night of the  
10:33AM 25 selections available in the drop-down menu on

1 Exhibit 2 under *Type of Business*. Does that look  
2 correct to you?

3 A It does.

4 Q What is the significance of this information when  
10:33AM 5 a client is signing up with you?

6 A There really is no -- I just want to know where  
7 they're coming from. They use the system on their  
8 own accord, so I really don't care.

9 Q So what is 8 Figure Dream Lifestyle?

10:33AM 10 A 8 Figure, I think, was a multilevel marketing  
11 company.

12 Q Do you know what they were selling?

13 A I don't.

14 Q Did you have a significant number of customers who  
10:34AM 15 were placing calls with 8 Figure Dream Lifestyle?

16 A I think we had a few, but I don't remember how  
17 many.

18 Q Significant enough that you decided it was  
19 important to add it to the website?

10:34AM 20 A Usually we would add anything that comes along,  
21 even if it was one time.

22 Q Do you currently -- well, since you've done  
23 business under the name MyAdGuys.com, have you  
24 done business with anyone who was placing calls  
10:34AM 25 under the 8 Figure Dream Lifestyle program?

1 A I don't know. I'd have to look.

2 Q At the time that you were operating this  
3 TollFreeZone.com, you had customers who were  
4 placing calls under the 8 Figure Dream Lifestyle  
10:34AM 5 program?

6 A We must have, otherwise we probably wouldn't have  
7 added it.

8 Q Do you know the names of any of the owners or  
9 founders of 8 Figure Dream Lifestyle?

10:35AM 10 A I do.

11 Q And who are those people?

12 A I can't answer that without certainty.

13 Q Does the name Jerry Maurer sound familiar to you?

14 A He's a gentleman in a multi-tier business, but I'm  
10:35AM 15 not sure what he does now.

16 Q To your knowledge, was he ever affiliated with  
17 8 Figure Dream Lifestyle?

18 A I believe he was.

19 Q And what about Brian Kaplan; have you heard that  
10:35AM 20 name before?

21 A I have.

22 Q To your knowledge, was he ever affiliated with  
23 8 Figure Dream Lifestyle?

24 A I don't know. We didn't dial for Brian Kaplan.  
10:35AM 25 He referred us people for his various -- whatever

1 he was doing, but he was not my client.

2 Q But he referred you people who became your  
3 customers who were placing calls related to  
4 8 Figure Dream Lifestyle sales?

10:35AM

5 A Not without certainty, I can't tell you. All  
6 those guys are in different businesses all the  
7 time, so it's hard to say what they're doing. If  
8 I had a specific customer that you think that he  
9 referred me to, I can look it up.

10:36AM

10 Q But do you recall Jerry Maurer or Brian Kaplan  
11 ever referring you customers who were placing  
12 calls for the 8 Figure Dream Lifestyle program?

13 A No names specifically.

10:36AM

14 Q It's a yes-or-no question. Do you recall  
15 Brian Kaplan or Jerry Maurer referring you  
16 customers who were placing calls related to the  
17 8 Figure Dream Lifestyle program?

10:36AM

18 A I do not recall if it was specifically for  
19 8 Figure Dream Lifestyle or if it was one of their  
20 other programs. Those guys are involved in  
21 several programs. So I'm not sure who they  
22 referred and for what.

10:37AM

23 Q But you have had customers in the past that have  
24 placed calls related to the 8 Figure Dream  
25 Lifestyle program?

1 A Yes.

2 Q Because if not, you never would have put that on  
3 the website?

4 A Right. Correct.

10:37AM 5 Q Okay. So the next selection on that list is  
6 Kyani, K-y-a-n-i?

7 A Never heard of them.

8 Q And why is that on there, then?

9 A Is it on -- is that a person, or is it --

10:37AM 10 Q It's on the drop-down menu on your website,  
11 Exhibit 4.

12 A Oh. Off the top of my head, I do not even recall  
13 putting that on there. I don't even know who that  
14 is.

10:37AM 15 Q What about the next one, WorldGN?

16 A No recollection.

17 Q Do you recall ever having customers who were  
18 placing calls related to Kyani or WorldGN?

19 A I don't.

10:38AM 20 Q What about Fast Home Biz?

21 A No idea.

22 Q Do you recall ever having any customers who were  
23 placing calls related to sales for something  
24 called Fast Home Biz?

10:38AM 25 A I don't recall now.



1 Q Do you believe you've ever heard any of those  
2 names before?

3 A I would have --

4 Q Do any of them sound familiar to you?

10:38AM 5 A I would have because I put them on here, but I  
6 don't recall who it was or when we did it or.

7 Q Okay. What about Elite Profit System, Inc.; what  
8 is that?

9 A I don't remember off the top of my head.

10:38AM 10 Q Do you recall ever having customers who were  
11 placing telemarketing calls related to Elite  
12 Profit System, Inc.?

13 A I don't recall, but I'm sure we did because  
14 otherwise it wouldn't be on here.

10:38AM 15 Q What about the next one, Karat Bars, K-a-r-a-t.  
16 Do you know what that is?

17 A It's one of those multilevel marketing groups.  
18 That, again, I don't remember specifically who we  
19 dialed for.

10:39AM 20 Q Do you recall ever having customers that were  
21 placing telemarketing calls related to Karat Bars?

22 A I don't, but I'm sure we did, otherwise it  
23 wouldn't be on here.

10:39AM 24 Q Okay. The next one, Enagic, E-n-a-g-i-c, slash,  
25 Water, what does that mean?

1 A That is a water purification company.

2 Q And did you have customers who were placing  
3 telemarketing calls on behalf of Enagic?

4 A I know we did, yeah.

10:39AM 5 Q Do you recall during what time frame --

6 A I don't.

7 Q -- any of those customers?

8 A Uh-uh.

9 Q Do you know if you have any currently?

10:40AM 10 A I don't know off the top of my head.

11 Q The next one is MMM. What does that mean?

12 A No idea.

13 Q Never heard of that acronym?

14 A I'm sure I did, but I have no idea what it means.

10:40AM 15 I don't remember.

16 Q What about SSM?

17 A Again, I don't remember what that is.

18 Q And then, towards the bottom, TiDom, T-i-D-o-m?

19 A Yeah, that was another multilevel marketing group.

10:40AM 20 Q Do you recall having customers who were placing  
21 telemarketing calls related to TiDom?

22 A I do.

23 Q Do you know during what time frame you had those  
24 customers?

10:40AM 25 A I don't recall.

1 Q Do you know if you still have any today?

2 A I don't think so, but I don't know.

3 Q Was TiDom connected with a company called  
4 Elite Marketing Alliance in any way that you're  
10:41AM 5 aware of?

6 A I have no idea.

7 Q Have you heard of Elite Marketing Alliance?

8 A Not off the top of my head.

9 Q Do you know a woman by the name of Dana Ehrlich?

10:41AM 10 A I do.

11 Q And who is she?

12 A She is a former customer, but that's pretty much  
13 it. She dealt with us once or twice.

14 Q And during what time frame was she your customer?

10:41AM 15 A I have no idea.

16 Q Was she connected in any way with TiDom or  
17 Elite Marketing Alliance?

18 A Without looking, I couldn't tell you.

19 Q Do you recall participating in a Webinar where you  
10:42AM 20 provided instructions to Elite Marketing Alliance  
21 salespeople as to how to set up phone calls  
22 through your system?

23 A Off the top of my head, no, but I do -- I do  
24 training calls quite a bit. So there could have  
10:42AM 25 been 1,000 of them between now and then.

1 Q What about Terryle Butts, T-e-r-r-y-l-e,  
2 B-u-t-t-s; does that name ring a bell to you?

3 A I don't think I've ever heard of that guy.

4 Q Have you ever done business with somebody by the  
5 name of Bill White?

6 A I'd have to look. It's a pretty generic name.

7 Q Does that sound familiar to you?

8 A No.

9 Q Doesn't sound familiar?

10 A No.

11 Q What about Rich Holman, H-o-l-m-a-n?

12 A Yes. He's one of our clients.

13 Q He's a current client?

14 A No.

15 Q He was previously a client?

16 A He was a client, yeah.

17 Q When you were operating as TollFreeZone?

18 A No. I think he was an MyAdGuys client.

19 Q What sort of services did you provide to  
20 Rich Holman?

21 A Without looking, I couldn't tell you.

22 Q You don't recall anything other than he was a  
23 client?

24 A I think he's a farmer in Wisconsin.

25 Q Do you recall what he was selling through the

1 telemarketing services that you provide?

2 A I don't.

3 Q What about Marc Wilson, M-a-r-c; does that name  
4 sound familiar to you?

10:44AM 5 A He's one of the people that swim around those  
6 businesses with Kaplan and Maurer.

7 Q Was he a client of TollFreeZone.com or  
8 MyAdGuys.com?

9 A I don't think so, but I know he's referred people  
10:44AM 10 to us. I'm pretty sure he's on one of our  
11 competitor systems.

12 Q Okay. So once somebody fills out the sign-up form  
13 shown in Exhibit 2, is that data that's filled out  
14 on that form sent directly to you?

10:45AM 15 A Yes.

16 Q And then, what do you do if you're interested in  
17 having that person as a customer?

18 A So if you're interested in a site -- or an  
19 account, you fill out the form. We provision --  
10:45AM 20 I'll provision an account for you. And then I'll  
21 send you to our website with our training videos  
22 on how to utilize the system.

23 Q When you say *provision an account*, what does that  
24 involve?

10:45AM 25 A So I'll give you a user ID and password to your

1 specific account.

2 Q And where am I logging into?

3 A So you'll go to Dialerleads.com. It's a URL that  
4 I point to that -- the autodialer system that we  
5 use.

10:45AM

6 Q And is that the name of the company that provides  
7 the call technology, Dialerleads?

8 A No. That's dialer.T0.

9 Q Is the name of the company?

10:46AM

10 A Correct.

11 Q To your knowledge, are they connected in any way  
12 with a company called Technologic?

13 A Technologic, Inc., yes. That's them.

14 Q So Technologic, Inc. operates under the name  
15 dialer.T0?

10:46AM

16 A Correct.

17 Q Where is Technologic, Inc. located?

18 A As far as I understand, they're in Panama.

19 Q Do they have any presence in the United States,  
20 that you're aware of?

10:46AM

21 A I've never met anybody. We've always done -- I've  
22 always just -- my only communication with them is  
23 they send me an invoice, and I pay it.

24 Q How long have you assisted people in setting up  
25 telemarketing accounts through dialer.T0?

10:47AM

1 A I know it's been longer -- oh, gosh. I want to  
2 say it's been several years, but I can't pinpoint  
3 the exact date. I could look that up for you.

4 Q Would you say it's been more than five years?

10:47AM

5 A Yes.

6 Q More than ten years?

7 A No.

8 Q So somewhere between five and ten years?

9 A Somewhere in there, yeah.

10:47AM

10 Q So at some point when you started doing business  
11 with them, how did you set up that arrangement in  
12 the first place?

13 A A friend of mine referred me and said, Hey, maybe  
14 you want to call these guys. And so he gave me an  
15 email address, and I emailed this person, and they  
16 set me up with an account.

10:48AM

17 Q So you never spoke with anybody at Technologic?

18 A Nope.

19 Q You had communication by email. Did you have to  
20 sign some sort of contract with them?

10:48AM

21 A I did not.

22 Q No contract?

23 A I just had to send them money.

24 Q So you sent them some sort of down payment to fund  
25 the business --

10:48AM

1 A Fund the business.

2 Q -- originally?

3 A Correct.

4 Q And all of your dialing today is still done with  
10:48AM 5 Technologic?

6 A Yeah, what little we do, we do it through them.

7 Q And during the course of that five to ten years  
8 you've done business with them, you never had  
9 occasion to speak with anybody regarding anything?

10:48AM 10 A We had a few technical issues, but I called my  
11 friend, and I said, Who do I call for this? And  
12 they gave me some guy that I talked to that was  
13 under contract with Technologic, Inc. here in the  
14 U.S. to do tech support.

10:49AM 15 Q Do you know where he was located?

16 A Somewhere in northern California. So the few  
17 times I had tech issues, I had to call him.

18 Q Do you recall his name?

19 A I don't.

10:49AM 20 Q So when you send money to Technologic to pay for  
21 the services they're providing to your company,  
22 where do you send those checks?

23 A To a Wells Fargo account.

24 Q Just wiring the money?

10:49AM 25 A I just hand walk a check in.



1 Q You never -- did you ever mail checks to a certain  
2 location for someone else --

3 A No.

4 Q -- to deposit?

10:49AM 5 A No. I just walk in or -- when I had a Wells Fargo  
6 account, I would just wire it to them.

7 Q So if I filled out the form on your website, you  
8 provision me an account, I've got a login now to  
9 dialer.T0. If I want to place telemarketing calls  
10:50AM 10 through your system, what's the next step after  
11 that?

12 A So you would go to our website at  
13 Autodialer123.com, and you would click in login  
14 and instructions, and there is a myriad of videos  
10:50AM 15 on how to use the system. So you would go through  
16 that, and if you had any questions, call me.

17 Q You make yourself available to provide support  
18 assistance to people that are trying to set up  
19 their accounts?

10:50AM 20 A Yes.

21 Q How often do you receive calls with people seeking  
22 assistance of that?

23 A Quite a bit.

24 Q Can you define *quite a bit* for me, please?

10:50AM 25 A Probably half, half the customers call me and say,

1 I can't log in.

2 Q So in a given business day, approximately how many  
3 of those calls do you receive?

4 A Now, probably none, because we haven't taken on  
10:51AM 5 too many new clients in a while for that  
6 particular platform.

7 Q Is there a reason why you stopped taking on  
8 clients for that platform?

9 A The guy sitting next to you.

10:51AM 10 Q You're referring to Craig Cunningham?

11 A Yes.

12 Q And lawsuits that have been filed against you by  
13 Craig Cunningham?

14 A Correct.

10:51AM 15 Q So when did you stop taking on clients who are  
16 doing telemarketing robocalling?

17 A We still take them on when they call us, but we've  
18 stopped advertising it. We're not really pushing  
19 it. We're pushing ringless calls. So if somebody  
10:51AM 20 calls me, we usually convert them over to ringless  
21 calls now.

22 Q So when did you stop advertising and seeking out  
23 those clients?

24 A Probably about a year ago.

10:52AM 25 Q I keep going back to this because you keep using

1 the word *we*. Is there anyone else involved in  
2 this business other than you?

3 A No. Just I.

4 Q Okay. So when you're using the word *we*, referring  
10:52AM 5 to MyAdGuys.com or --

6 A The corporation.

7 Q -- TollFreeZone.com, you're referring to yourself,  
8 essentially?

9 A The company.

10:52AM 10 Q Do you have any employees?

11 A Nope.

12 Q Did either of those companies ever have any  
13 employees?

14 A We did back in 2005. I had a secretary and an  
10:52AM 15 accountant.

16 Q Who were on the payroll?

17 A Correct.

18 Q And how long did those people work for you?

19 A Probably through 2006. Not very long.

10:52AM 20 Q And since then, both those companies have been  
21 operated solely by you?

22 A Correct.

23 Q How many videos do you have on your system,  
24 instructional videos that you were talking about,  
10:53AM 25 related to autodialing, predictive dialing?

1 A No idea. But you're free to look it up. They're  
2 all on the website.

3 Q Would I have to have a special login to --

4 A No.

10:53AM 5 Q -- access those?

6 A Uh-uh.

7 Q Did you make those videos yourself?

8 A I did.

9 Q Anybody assist you with that?

10:53AM 10 A No.

11 Q How did you learn how to use the dialer.TO  
12 platform?

13 A It was pretty simple. It's a pretty easy system  
14 to learn. So I just played with it until I  
10:53AM 15 figured it out.

16 Q Did you receive any instruction from anybody at  
17 that company at Technologic?

18 A No. It was kind of a slow start. But I knew I  
19 could figure it out.

10:54AM 20 Q Prior to starting TollFreeZone.com, were you also  
21 in the telemarketing business at that time, so  
22 back before 2005?

23 A Yes. Starting in 2000.

24 Q So what did you do from 2000 to 2005 before you  
10:54AM 25 started TollFreeZone?

1 A I worked with a company called Sound Media Group.

2 Q Sal?

3 A Sound.

4 Q Sound Media Group?

10:54AM 5 A Sound Media Group, yep.

6 Q Were you an owner in that company?

7 A Nope.

8 Q Were you an employee?

9 A I was an employee, I guess.

10:54AM 10 Q What did you do for them?

11 A Sales.

12 Q What kind of services did they sell?

13 A Just autodialers.

14 Q Is that company still in business?

10:55AM 15 A No. They sold to a company called Genutech(phon).

16 And Genutech went out of business.

17 Q Where was Sound Media Group located?

18 A Irvine, California.

19 Q So you were selling autodialing services, and then

10:55AM 20 decided to start your own company to sell those

21 services yourself?

22 A Correct.

23 Q What did you do before 2000?

24 A I was in the mortgage banking field.

10:55AM 25 Q Directing you back to Exhibit No. 2, the printout

1 from your website, page 4, towards the end, it  
2 says *This agreement shall* -- I'm sorry, not that  
3 one. Exhibit 2, the printout of the signup form  
4 and the terms and conditions. On page 4, it says  
10:56AM 5 *This agreement shall be construed in accordance*  
6 *with the laws of the state of Colorado.* Did your  
7 company have some sort of connection with the  
8 state of Colorado?

9 A No. I don't know why Colorado is there. I never  
10:56AM 10 saw that. It should have been California. Right  
11 now it should be Florida, but thanks for pointing  
12 that out.

13 Q Has MyAdGuys.com or TollFreeZone.com ever had any  
14 connection with the state of Colorado?

10:57AM 15 A No.

16 Q How are you paid by your customers once you set  
17 them up with a telemarketing account?

18 A They'll go to the website and click pay now and  
19 use their credit card.

10:58AM 20 Q Okay. Well, I guess, I didn't ask that question  
21 very well. That was a very specific answer.

22 How do you bill your clients? Do you charge  
23 them a flat fee for the whole service of setting  
24 it up? Do they pay you by the call? How are  
10:58AM 25 they --

1 A No.

2 Q -- charged?

3 A We charge them by the minute used. So if they use  
4 a 100,000 minutes, they have a specific rate, and  
10:58AM 5 all clients have different rates. So if I'm  
6 charging you a penny and a half per minute, and  
7 you burn 100,000 minutes, then you have to send me  
8 \$1,500.

9 Q And when you say *per minute*, is that per minute  
10:58AM 10 that somebody is actually on the line speaking  
11 with them?

12 A Correct. They don't get charged for busies, no  
13 answers, bad numbers. If there's no connect,  
14 there's no cumulative minutes.

10:58AM 15 Q But if a voicemail picks up, if an answering  
16 machine picks up or a live person picks up, then  
17 they're charged for those minutes?

18 A Correct.

19 Q So you are buying these minutes from a provider  
10:59AM 20 and then reselling them, essentially, along with  
21 the system that places the calls?

22 A Correct.

23 Q Is the actual dialing of the calls done through  
24 Technologic or by some other company?

10:59AM 25 A Through Technologic.

1 Q Have you ever heard of a company called Connexum?

2 A Yes.

3 Q C-o-n-n-e-x-u-m?

4 A I sure have.

10:59AM

5 Q So who is Connexum?

6 A Connexum is a long-distance company.

7 Q And do they provide the minutes that are, then,  
8 resold to your customers?

11:00AM

9 A Maybe, maybe not. Most dialer companies, and I'm  
10 sure dialer.T0 does the same thing, has a device  
11 built in their technology called an LCR, which  
12 stands for least-cost routing. Connexum is  
13 probably one of ten rate decks offered by ten  
14 different long-distance companies. Connexum may  
15 or may not be the long-distance provider for each  
16 phone call. It depends on who is the least cost  
17 for that rate deck.

11:00AM

18 So if I were to make a phone call from  
19 California to California, it may be more expensive  
20 for me to do that than to do a call from  
21 California through Canada. Bell Canada might have  
22 a cheaper rate deck. So it's impossible to say  
23 without really diving into the details as to who  
24 was the LD provider for each phone call on any  
25 given dialer system.

11:00AM

11:01AM



1 Q When you use the term *rate deck*, what do you mean  
2 by that?

3 A So as a -- so let me go back a little bit.  
4 Connexum is a long-distance company whose backbone  
11:01AM 5 is AT&T. AT&T gives Connexum a smoking rate, so  
6 that they can make some money by offering the AT&T  
7 long-distance re-branded as Connexum. So at the  
8 end of the day Connexum is AT&T, if you want to go  
9 down all the way.

11:01AM 10 I'm a reseller for Connexum long distance. I  
11 can sell to businesses. I can sell to whoever. I  
12 can sell to other dialer companies. And what  
13 happens is, is Connexum gives a rate deck for each  
14 termination point. So if I were to print it out,  
11:01AM 15 it would be thousands of pages of rates per route.

16 The system called an LCR, least-cost routing,  
17 that is built into the technology of almost all  
18 dialer companies allows you to insert a digital  
19 rate deck, so I can put in a rate deck for 50  
11:02AM 20 different long-distance companies if I want. And  
21 if you've ever made a phone call, have you ever  
22 noticed that there's a slight delay between when  
23 you hit that last number and when the phone  
24 actually rings, and that's called a PDD. Off the  
11:02AM 25 top of my head, I forgot what it stands for, but

1 it's basically a predial delay. What's happening  
2 during that time is the phone company -- your  
3 phone company that you're dialing on, if you're  
4 cell phone is doing it or whomever, it's going  
11:02AM 5 through the rate decks trying to figure out who's  
6 the cheapest route to send that call through, and  
7 it's not always the same long-distance provider.

8 So Connexum is one of probably a zillion  
9 resellers of long distance that can be chosen  
11:03AM 10 from. And any given dialer company, or any phone  
11 company, is going to have a whole bunch of rate  
12 decks installed in their least-cost routing, so  
13 that the computer can decide which route and which  
14 phone company to send that call through for the  
11:03AM 15 least cost. Does that make sense?

16 Q I believe I understand what you're saying. So if  
17 I set up an autodialing campaign through the  
18 dialer.TO platform, with your assistance, starting  
19 with your website Autodialer123.com, for each call  
11:03AM 20 that I am requesting to be placed, the dialer.TO  
21 system is essentially searching for the cheapest  
22 rate, depending on where that call is originating  
23 and where it's going to?

24 A Correct.

11:04AM 25 Q So same kind of idea as you've got three gas

1 stations at an intersection, and you can choose to  
2 buy your gas from whoever is selling it the  
3 cheapest rate?

4 A But you're going to get gas.

11:04AM

5 Q Right.

6 A Right.

7 Q Okay. So as you were giving that explanation, you  
8 made a statement somewhere along the lines of *I am*  
9 *a reseller for Connexum*. Did you mean you

11:04AM

10 personally, or were you speaking as an example?

11 A No. I personally am a reseller for Connexum. So  
12 if I have a customer that wants long distance -- I  
13 haven't done it in a while, but if I did, I could  
14 go to Connexum and refer that customer over there  
15 and then be paid a small sliver of a percentage  
16 every time they pay their bill.

11:04AM

17 Q If you set someone up on the dialer.T0 platform,  
18 does your company have any incentive as to through  
19 whom each call is placed?

11:05AM

20 A Zero. No. Not at all.

21 Q That's all handled by dialer.T0?

22 A That's all handled by them. We have no control  
23 over who gets the long distance. So even if I was  
24 the reseller or the agent on the contract between  
25 Connexum and dialer.T0, I would, as a user of

11:05AM

1 dialer.TO, I would have zero control over who they  
2 sent the calls through, because the LCR chooses  
3 each route based on least cost from probably a  
4 dozen or ten or five or who knows however many  
5 long-distance companies.

11:05AM

6 Q For your clients, do you have access to data as to  
7 which long-distance company is used to place a  
8 given call?

9 A No. No, no information on that whatsoever.

11:05AM

10 Q Technologic would have that information?

11 A They would.

12 Q So if I set up an account using your system, the  
13 dialer.TO platform, and I want to place  
14 telemarketing calls to thousands of people around  
15 the country, where do the phone numbers come from  
16 that are going to be called?

11:06AM

17 A Most of the time they'll come from our customer,  
18 who has already acquired them through either a  
19 data center or they've -- like most of our  
20 political people will get them from their state  
21 parties. We can sell them data. I have access  
22 through MyDataGuys to sell data, which we acquire  
23 through any number of sources, like ListGIANT or  
24 Experian or TransUnion or Equifax. That's the --  
25 best data you can buy, by the way, is Experian,

11:06AM

11:06AM

1 Equifax, or TransUnion because they retain almost  
2 all data on everyone, as far as status on male or  
3 female, credit, all kinds of stuff. They have --  
4 I mean, the book for Experian to learn how to  
5 order data through is that thick (indicating).

11:07AM

6 Q So what is MyDataGuys?

7 A So they're a broker of lists. So if somebody  
8 calls and says, Hey, I want to order a list, they  
9 can buy it through MyDataGuys, and MyDataGuys, I  
10 work for that, I'm part of that, so I can go and  
11 call Experian and get data from them or any other  
12 list company.

11:07AM

13 Q Is MyDataGuys a company that you have some  
14 ownership interest in?

11:07AM

15 A Yes. It was. It's gone now.

16 Q Okay. So what is the full company name?

17 A It was MyDataGuys, LLC.

18 Q And in what state was that formed?

19 A California.

11:08AM

20 Q And its status has lapsed?

21 A It's lapsed. We let it go.

22 Q How long ago did you let it go?

23 A About a year ago.

24 Q Any reason for that?

11:08AM

25 A Jordan wanted to go off and do his own thing, and

1 we kind of split ways. So that was the end of  
2 that.

3 Q Who is Jordan?

4 A He was the president.

11:08AM 5 Q Last name?

6 A Salkin, S-a-l-k-i-n.

7 Q So a business you formed together?

8 A Yes.

11:08AM 9 Q Did MyDataGuys do any setup of telemarketing  
10 autodialing accounts?

11 A No. Zero.

12 Q They were just selling the data?

13 A Just selling data. They didn't care what they did  
14 with it.

11:08AM 15 Q So how does that list of phone numbers come to  
16 you, how does it end up in the computer system  
17 that is placing the dialing?

18 A So on our videos, we show you how to load data.  
19 So you would put it in a specific format, maybe a  
11:09AM 20 .TXT or .CSV, and single column, area code and  
21 phone number only, and then you can load that  
22 directly into the system.

23 Q So basically off of a text document or a  
24 spreadsheet?

11:09AM 25 A Yeah.

1 Q Back when you were operating as TollFreeZone.com  
2 and you were doing more of the telemarketing  
3 autodialer accounts, at that time, approximately  
4 how many support calls, support questions would  
5 you receive per day?

11:10AM

6 A Probably a dozen.

7 Q Do you have any idea in say 2015 how many  
8 customers you had that did autodialing and  
9 robocalling?

11:10AM

10 A No. No idea.

11 Q Do you have any idea in 2016 how many customers  
12 you had that did that?

13 A I wouldn't be able to give you a specific number.  
14 No idea.

11:10AM

15 Q Did you track that kind of data?

16 A No, not really.

17 Q Do you require any upfront payment from those  
18 customers before the calls start getting dialed?

19 A Always, because most of our business is political,  
20 and those guys have a rule, if you don't collect  
21 your money before the campaign is over with,  
22 you're not getting paid. So it's our policy to  
23 take that money upfront from everybody.

11:11AM

24 Q So if I'm doing telemarketing sales calls, and I  
25 want to have you set up an autodialing campaign

11:11AM

1 for me, how do you determine how much you're  
2 billing me for those services?

3 A So you would give me a ballpark, you would say,  
4 Well, I'm going to do X amount of dials. Then we  
5 would estimate how many minutes that would be, and  
6 we would just charge you for that, and if you had  
7 over, then you had over, and if you had under, it  
8 stopped dialing.

9 Q So how often do you bill your clients, then, once  
10 you have an ongoing account?

11 A Every time they want to dial, they make a payment.

12 Q So with each dialing campaign that's set up, you  
13 have to have prepayment --

14 A Correct.

15 Q -- estimated based on the number of calls that are  
16 going to be placed?

17 A Correct. Yeah.

18 Q And it's based on a flat amount per minute?

19 A Yes.

20 Q Does that amount fluctuate?

21 A Depends on who the customer is and what they're  
22 doing. So our politicians, we charge them per  
23 call regardless of the outcome. And the reason  
24 for that is they can't -- they have no tolerance  
25 for variance. They have to go and get their



1 funding for the calls.

2 So if they're going to do a 100,000 calls,  
3 and I'm charging three cents per call, then  
4 they're going to send me \$3,000, and no matter how  
5 many minutes we burn to accomplish that, that's --  
6 they've already paid for it.

7 Q Well, politicians aside, what about people who  
8 are --

9 A Our commercial clients?

10 Q -- dialing for sales?

11 A So our commercial clients, they will let me know  
12 how many they want to call, and we'll estimate the  
13 minutes. So if you said, I want to call 100,000  
14 people, we're probably going to burn about 30,000  
15 minutes. So if that's the case, and you're at a  
16 penny a minute, for round numbers, then you're  
17 going to send me, you know -- what is that --  
18 300 bucks.

19 Q So if I'm an individual small business who wants  
20 to set up an autodialing campaign to robocall  
21 100,000 people, can I do that without your  
22 assistance --

23 A Absolutely.

24 Q -- or someone like you?

25 A Yeah. We can do it. You're going to -- if that's

1 the case, you will interact with me one time. And  
2 that is when you send me your signup form, then we  
3 will go ahead and set up the account, and I'll  
4 send you your user ID and your login, your  
5 password, and then you will be directed to see the  
6 videos. And if you have no more questions after  
7 the video, then there's no reason for you to ever  
8 call me.

11:14AM

9 Q Well, what I really meant was, do I have any way  
10 to do that on my own without your system?

11:14AM

11 A You do not. You have to sign up. So you have to  
12 have at least that initial contact.

13 Q Okay. So I can't go directly to Technologic  
14 myself and bypass someone like you?

11:14AM

15 A Sure, you could, if you knew about them.

16 Q Doesn't sound like too many people know about  
17 them?

18 A No. But you could. You could call them just like  
19 I did and set yourself up. We try not to let our  
20 clients know that, though.

11:14AM

21 Q I would think so.

22 THE WITNESS: Would you guys mind  
23 if we took a bathroom break?

24 MR. LEVIN: That's fine. I was  
25 just thinking the same thing.

11:15AM

1 We can go off the record.

2 (A recess is taken)

3 MR. LEVIN: Back on the record.

4 BY MR. LEVIN:

11:32AM

5 Q Does your business maintain records of all calls  
6 that are placed through any campaigns that you set  
7 up?

8 MR. TROST: Can you clarify *your*  
9 *business*?

11:32AM

10 Q Does MyAdGuys.com maintain records of phone calls  
11 that are placed through autodialing campaigns that  
12 you set up?

13 A We don't, but dialer.T0 does.

14 Q Do you have access to those records through  
15 dialer.T0?

11:33AM

16 A Sure. Yeah. How far back, I don't know, because  
17 they maintain them, so I don't know how far back  
18 they keep them.

19 Q Okay. And has that practice been the same, to  
20 your knowledge, since you were operating  
21 TollFreeZone.com?

11:33AM

22 A Yes.

23 Q So would you have to ask somebody at dialer.T0 to  
24 look up that information for you, or you could do  
25 that on your own?

11:33AM

1 A If it's available, I should be able to do it on my  
2 own.

3 Q So if I received a phone call, telemarketing sales  
4 call, and the person told me, I set up the account  
11:33AM 5 that was used to make your call through  
6 Autodialer123.com and Michael Montes, you could  
7 trace down the data related to that particular  
8 call?

9 A I could. Again, assuming that they have stored  
11:34AM 10 that data and I still have access to it.

11 Q You don't know how long they maintain those  
12 records?

13 A I don't.

14 Q Who referred you to Technologic dialer.T0?

11:34AM 15 A It was a guy named Scott -- anyway, he used to  
16 work at Connexum. But it's been years since he  
17 left. So he is not there anymore.

18 Q You don't recall his last name, I guess?

19 A Off the top of my head, I -- I should. I should  
11:34AM 20 know this.

21 Q Scott Presta --

22 A Yeah.

23 Q -- does that sound familiar?

24 A That's it.

11:35AM 25 Q Was there some question in the last year or so as

1 to whether Technologic or dialer.T0 was going to  
2 be ceasing operations?

3 A Yeah, they haven't done it, yet. They were  
4 supposed to stop. I've been waiting. They  
11:35AM 5 haven't stopped, yet.

6 Q Do you know, is there a reason why they're talking  
7 about ceasing operations?

8 A Probably in the dwindling of business.

9 Q But as we sit here today, are you aware that  
11:35AM 10 they're intending to stop doing business as of a  
11 certain date in the future?

12 A They haven't given me a date. But that was one  
13 more reason for us to migrate our business to  
14 ringless calls.

11:36AM 15 (Exhibit No. 5 marked for  
16 identification)

17 Q Mr. Montes, you've just been handed what's been  
18 marked as Exhibit 5. Have you ever seen this  
19 document before?

11:36AM 20 A I don't think I have, but I'm aware of it.

21 Q So this seems to indicate that, on  
22 June 18th, 2012, the state of Missouri obtained a  
23 judgment against TollFreeZone.com, Incorporated in  
24 the amount of \$73,000, plus \$1,325 in fees and  
11:37AM 25 costs. Are you aware of the existence of that

1 judgment?

2 A Yes.

3 Q For what was TollFreeZone.com sued by the state of  
4 Missouri?

11:37AM

5 A I don't know. I never saw the lawsuit. We never  
6 responded to it.

7 Q When did you first become aware of the existence  
8 of the judgment?

11:37AM

9 A It was before this. I don't know. I don't  
10 remember.

11 Q Before today?

12 A Well, they sent me the -- they sent me a -- they  
13 sent me something.

14 Q The state of Missouri sent you something?

11:37AM

15 A Yeah. Yeah.

16 Q And did you contact somebody in response?

17 A Nope.

18 Q When you first became aware of it?

19 A I did not.

11:38AM

20 Q Have you taken any steps to pay this judgment?

21 A I have not.

22 Q And was it in 2012 that TollFreeZone.com ceased  
23 operations?

11:38AM

24 A I would assume that we just let it go after that,  
25 since the judgment was against the corp.

1 Q Other than the name, what has changed from  
2 TollFreeZone.com to MyAdGuys.com?

3 A We focus a lot more on different advertising  
4 methods.

11:38AM

5 Q But you still do some of the same work -- -- you  
6 offer the same services that you offered when you  
7 were operating this TollFreeZone.com?

8 A Correct.

11:39AM

9 Q And I believe you testified that you were the sole  
10 owner of both of those companies?

11 A I was.

12 Q And one was a California company, and one is a  
13 Florida company?

14 A Correct.

11:39AM

15 Q Any other differences between the two companies  
16 that you can tell me about?

17 A No.

18 Q Do you know when the corporate status of  
19 TollFreeZone.com lapsed?

11:39AM

20 A I don't recall.

21 Q How long did you continue operating under that  
22 name?

23 A Probably until we changed to MyAdGuys.

11:40AM

24 Q So you said MyAdGuys.com was formed, you thought,  
25 in either June of 2017 or June of 2018?

1 A Yeah. Whenever, whenever Cunningham got the  
2 judgment in Wisconsin against us. We formed a new  
3 corp that following week.

11:40AM

4 Q You're talking about the default judgment that was  
5 entered in this case that was subsequently  
6 vacated?

7 A Correct.

11:40AM

8 Q So regardless of when the corporate status of  
9 TollFreeZone.com, Incorporated may have lapsed,  
10 you continued operating under that name until the  
11 time that you formed MyAdGuys.com?

12 A Correct.

13 (Exhibit No. 6 marked for  
14 identification)

11:41AM

15 Q Looking at what you've just been handed that's  
16 marked as Exhibit 6, have you ever seen this press  
17 release before?

18 A I saw something similar to this the last time  
19 Mr. Cunningham and I met in deposition.

11:41AM

20 Q That was the deposition that was taken in the  
21 Tennessee case?

22 A I believe so.

23 Q When was that deposition taken?

24 A I don't recall. Last year sometime.

11:41AM

25 Q That was the first time that you had seen this?



1 A Yes.

2 Q Were you aware prior to that deposition that the  
3 Mississippi Public Service Commission had imposed  
4 penalties against your company totaling \$440,000?

11:41AM

5 A I was not.

6 Q Since you became aware of that, have you taken any  
7 steps to look into it further and find out more  
8 about how that happened?

9 A No.

11:42AM

10 Q Other than seeing this press release in two  
11 depositions, do you have any other information  
12 whatsoever regarding this \$440,000 fine?

13 A No.

11:42AM

14 Q Has anyone from the state of Mississippi ever  
15 contacted you to try to collect this fine?

16 A No.

11:42AM

17 Q The second paragraph of the press release says the  
18 company was accused of making unauthorized  
19 telephone solicitations in violation of law. Do  
20 you have any more detailed knowledge regarding  
21 those allegations?

22 A I do not.

23 Q Do you know anything about Mississippi's no-call  
24 law?

11:43AM

25 A I know that we put them on our no-call list.

1 Q What do you mean?

2 A So we block that state.

3 Q So your system does not allow anyone to place  
4 calls in the state of Mississippi?

11:43AM

5 A It does not.

6 Q What about Missouri?

7 A Missouri, also.

8 Q Any other states that are blocked from your  
9 system?

11:43AM

10 A We block -- yes. Off the top of my head, I don't  
11 know. Let me look.

12 Q Are you looking up something on the  
13 Autodialer123.com website?

14 A Yeah. Tennessee, Mississippi, Missouri, and  
15 Indiana.

11:43AM

16 Q Why Tennessee?

17 A Because Mr. Cunningham lives there.

18 Q Why Indiana?

19 A Indiana is very anti-robocalling.

11:44AM

20 Q So the reason you blocked Missouri and Mississippi  
21 were in relation to the state actions that were  
22 taken against your company?

23 A No. I was made aware that they are very  
24 anti-robocalling.

11:44AM

25 Q So had you blocked Missouri calls before you found

1 out the state had a judgment against you?

2 A I don't think so.

3 Q Had you blocked Mississippi calls before you found  
4 out about the fine that was levied in Mississippi?

11:44AM

5 A Yes.

6 Q But you never took any action to find out why you  
7 were fined if those calls were blocked in your  
8 system?

9 A No.

11:44AM

10 Q And other than Mr. Cunningham, is there any other  
11 reason that you blocked the state of Tennessee?

12 A No.

13 Q So if I want to set up an autodialing  
14 telemarketing campaign to target consumers in any  
15 of these states, I need to find someone besides  
16 you to help me with that?

11:45AM

17 A Correct.

18 Q But you place calls to the other 46 states?

19 A Yes, unless you're political, and then we don't  
20 have them on any blockage.

11:45AM

21 Q Well, talking about sales calls.

22 A Yeah.

23 Q Okay. Are you familiar with the website called  
24 Rosetta, R-o-s-e-t-t-a, calls.com?

11:45AM

25 A I am.

1 Q What is that?

2 A Rosettacalls is a domain that I own that I set up  
3 for a client called Rosetta Stone Communications,  
4 and it links to another platform called Stratics,  
11:46AM 5 and Stratics is very, very adept at robopolling.  
6 And these are political polling guys, and all they  
7 do is poll for politics.

8 Q When you say Rosetta Stone, I think of the  
9 language training videos and materials.

11:46AM 10 A Right.

11 Q Same company?

12 A No. No. Rosetta Stone Communications.

13 Q So Rosetta Stone Communications is a company that  
14 does political polling?

11:46AM 15 A Correct.

16 Q Do you have any personal uses for that website in  
17 your training videos or anything like that?

18 A Nope. As a matter of fact, they're the only  
19 client that we have on that platform.

11:47AM 20 Q So you own that domain name, and you bought it for  
21 a platform that you set up for their use?

22 A For their client. For our client.

23 Q Does the IRS have tax liens against you?

24 A They do.

11:47AM 25 Q Are those against you personally or --

1 A They are.

2 Q -- corporations? Approximately how much do you  
3 owe to the IRS?

4 A When it's all said and done, I'll probably be  
5 upwards of about \$5,000,000.

11:47AM

6 Q Does that relate in any way to business that  
7 you've done since you've been working as MyAdGuys  
8 or TollFreeZone?

9 A No. We're filing for that, but it's years in  
10 past.

11:47AM

11 Q So how far back does that relate?

12 A To probably '05.

13 Q So does that relate to tax returns you filed when  
14 you were working for Sound Media Group?

11:48AM

15 A No.

16 Q So it does relate to --

17 A TollFreeZone.

18 Q When you worked as TollFreeZone?

19 A Yeah.

11:48AM

20 Q Okay. Do you have any state tax liens against  
21 you?

22 A I do.

23 Q In what states?

24 A State of California.

11:48AM

25 Q How much does the state of California claim that

1 you owe?

2 A I don't remember. It's a lot. But we're working  
3 with them currently. We're working with IRS  
4 currently, too.

11:48AM

5 Q So if I'm setting up a telemarketing sales  
6 campaign through Autodialer123.com, I've got my  
7 account set up. I've got my phone numbers from  
8 the spreadsheet or the text document all loaded up  
9 in there. Once it's started, is there any further  
10 human intervention involved in placing those  
11 calls?

11:49AM

12 A No. Unless you want to stop the campaign. You  
13 can always hit stop.

11:49AM

14 Q Are you aware that at one time Jerry Maurer had  
15 listed your name and contact information on a  
16 website as someone to call to get a dialing  
17 campaign set up?

18 A Yes.

19 Q Do you know if that website still exists?

11:50AM

20 A I have no idea. I don't think so. We haven't  
21 gotten a referral from Jerry in a long time.

22 Q How long is a long time to you?

23 A Probably a year or two years. He likes our  
24 competitor.

11:50AM

25 Q Who is the competitor?

1 A There's three or four of them, but our biggest  
2 competitor is Dale Finney.

3 Q What's the name of Dale's company?

4 A Craig knows. He sued him. I don't know.

11:50AM 5 Q Does MyDataGuys provide any services for text  
6 messaging campaigns?

7 A No.

8 Q What about TollFreeZone.com; did you ever do that  
9 in the past?

11:51AM 10 A No. We would refer people to MyBizTexter. But we  
11 were not affiliated. We were not compensated.  
12 They were just the people we would send people to  
13 when they wanted to do texting.

14 Q Any specific reason why you've never gotten into  
11:51AM 15 the texting business?

16 A Just didn't seem to be a lot of money in it. So  
17 we didn't do it.

18 Q Are you familiar with a company called  
19 PodMusicGear.com --

11:51AM 20 A I am.

21 Q -- Incorporated? And what is PodMusicGear.com?

22 A Well, it was nothing then, and it's nothing now,  
23 but it was set up to sell hats with earbuds in  
24 them, so that you could just have your earbuds  
11:52AM 25 above your ears and plug your little iPod into it.

1 Q Did you ever actually manufacture or sell that  
2 product?

3 A Never. The guy who I was partners with passed  
4 away, and it just went by the wayside after that.

11:52AM 5 Q So was any business ever conducted under that  
6 name?

7 A No.

8 Q What is Doc, D-o-c, auditor.com?

9 A A domain name.

11:52AM 10 Q And is that a domain name that you own?

11 A It is.

12 Q And what is it used for?

13 A Nothing.

14 Q Did you have a specific intention of using it for  
11:52AM 15 something?

16 A No, but we were going to sell it.

17 Q So you had some specific individual in mind that  
18 you thought might be interested in buying it?

19 A When I bought it, I had a bunch of loan-mod  
11:53AM 20 companies calling me, and it was an up-and-coming  
21 business at the time, back in '08, '07, '08. And  
22 with the loan-mod companies, I don't know if  
23 you're familiar with that business, but what they  
24 would do is they would take your loan documents  
11:53AM 25 and they would find faults or issues with the loan



1 documents through a forensic audit. And if they  
2 found issues, they could take them back to the  
3 bank and force them to modify your loan.

4 And so I thought it was a clever name that I  
11:53AM 5 could build a, you know, mock website on and try  
6 to sell it. But we never sold it, so.

7 Q What about MobileTrackMe; is that a company name  
8 you've ever used?

9 A It was a domain that we picked for another company  
11:54AM 10 that we were going to put together. Never got off  
11 the ground. The website -- what we were trying to  
12 do was utilize your phone's GPS tracking for  
13 trucks that you have out in the field, whether  
14 they were service or delivery or for whatever  
11:54AM 15 reason, and you could, as an owner, track where  
16 all your trucks were.

17 There's a dozen of them out there now that  
18 you could probably get for free. So there was --  
19 it was, really, a great idea at the time. Nobody  
11:54AM 20 had had that. We were way ahead of the curve.  
21 But we couldn't get the technology to work.

22 Q What about the company EmailMyVmail.com?

23 A So that company, we actually got to the point  
24 where we were in beta. And then, Apple decided  
11:55AM 25 they didn't want to put the app on their

1 Play Store. But EmailMyVmail was a site where --  
2 or an app where you could download it to your  
3 phone, and you could -- it would record every one  
4 of your phone calls, if you programmed it that  
11:55AM 5 way.

6 So if you were talking to your grandma, and  
7 you wanted to record the message -- or record the  
8 phone call, you could do that. And it didn't  
9 really work too well. The voice quality was not  
11:55AM 10 that great. It might even still be in the Google  
11 Play Store. But we never launched it, so we never  
12 marketed it. It never went anywhere.

13 Q But that was a corporation that you had set up for  
14 that purpose?

11:55AM 15 A For that purpose.

16 Q More than just the domain name?

17 A Yeah. So unfortunately another non-starter.

18 Q Do you currently maintain ownership interest in  
19 any other companies besides those that we've  
11:56AM 20 discussed so far today?

21 A No. That's it.

22 Oh. Yes. Hacienda Real Estate Services,  
23 Inc.

24 Q And what is Hacienda Real Estate Services?

11:56AM 25 A It's my real estate company in Florida.

1 Q Are you currently selling real estate in Florida?

2 A I am.

3 Q When did you start that company?

4 A Last year.

11:56AM

5 Q Pardon?

6 A Last year.

7 Q 2018?

8 A Yep.

9 MR. LEVIN: Can we go off the

11:57AM

10 record for a moment?

11 (Discussion off the record)

12 (A recess is taken)

13 MR. LEVIN: Back on the record,

14 please.

12:04PM

15 BY MR. LEVIN:

16 Q Before we get to the video, Mr. Montes, I had  
17 forgotten, I noticed that you made a notation, a  
18 handwritten notation on one of those exhibits. We  
19 need to identify what that is because those are  
20 going to go with the transcript, and if you wrote  
21 on them --

12:04PM

22 A Yep.

23 Q That's Exhibit No. 2, I believe?

24 A 2.

12:04PM

25 Q What did you write on there?

1 A *Change state to Florida from Colorado.*

2 Q What was the reason that you wrote that?

3 A You corrected my terms of use.

4 Q Okay. So is that a note that you were making to  
12:05PM 5 yourself?

6 A It was.

7 Q Did you write anything on any of other exhibits  
8 that are in front of you there?

9 A I did not.

12:05PM 10 Q So Exhibit No. 7 I'll represent to you is an email  
11 that I sent to your attorney with links to the  
12 videos that we are going to play. Have you seen  
13 this email before?

14 A No, but I've seen all the videos.

12:05PM 15 Q Okay. So you didn't watch any of these videos  
16 prior to the deposition today?

17 A No.

18 Q You've watched them at some point?

19 A I think I recorded them, so.

12:05PM 20 Q So let's start, then. There are ten URLs, and  
21 we'll just go in order that they are listed on the  
22 page here. I'll refer to them as first, second,  
23 third, et cetera, rather than reading each URL  
24 into the record. And I have set them up on my  
12:06PM 25 browser here in the order that they appear in the

1 email.

2 The first one I'm showing you, again, is the  
3 first URL on the list of ten in the email that's  
4 been marked as Exhibit No. 7. It's titled *How to*  
12:06PM 5 *make a call campaign and schedule get the system*  
6 *to dial out your campaign* -- that's exactly how  
7 the title reads -- totaling 31 minutes and  
8 51 seconds. I'm just going to play a little bit  
9 from the beginning here, and then I'll stop it,  
12:07PM 10 and you can tell me if this is your voice on the  
11 video.

12 (Video is played)

13 Q Oh, you know what? We're muted. I'm sorry.  
14 Let's try that again.

12:07PM 15 (Video is played)

16 Q Is that your voice on that video?

17 A Yes, it is.

18 Q Do you recall when you made that video?

19 A I don't.

12:08PM 20 Q What is RainMakerCalls.com? We haven't talked  
21 about that website.

22 A So it's just another website that had -- it had  
23 the -- what did it have on it? I want to say that  
24 had, at the time, I think this had Shoutpoint's  
12:08PM 25 platform on it.

1 Q What is Shoutpoint?

2 A Shoutpoint was another platform that we used.

3 Q So in place of Technologic's platform?

4 A Uh-huh.

12:08PM

5 Q Yes?

6 A Yes. Sorry.

7 Q And when did you stop using Shoutpoint's platform?

8 A I know I've said this before, and off the top of  
9 my head, I don't remember, but -- I don't

12:09PM

10 remember. I know -- I know that I have it in the  
11 record, because I quoted it, but right now, I  
12 can't recall.

13 Q In the record --

14 A From another deposition that Mr. Cunningham --

12:09PM

15 Q From the Tennessee case?

16 A Yeah, yeah.

17 Q Why did you switch from Shoutpoint to the  
18 dialer.TO platform?

19 A Dialer.TO was much less expensive. So my costs  
12:09PM 20 per minute was much lower. And Jamie cut my, the  
21 owner of Shoutpoint, cut my credit line, and I  
22 didn't have the money to pay them, so we stopped  
23 using it.

24 Q Do you have any idea of like a rough time frame of  
12:09PM 25 when you made that switch?

1 A I don't. Yeah, I don't.

2 Q Do you have some records somewhere that you might  
3 be able to locate that information and provide it  
4 to your attorney, and he could --

12:10PM

5 A I do.

6 Q -- pass it on to me?

7 A I do. If you give me one minute, I could probably  
8 tell you right now.

9 Q Take your time.

12:10PM

10 A It looks like it was late 2016, early 2017. But I  
11 can't give you an exact date.

12 Q Where is Shoutpoint located?

13 A Irvine, California.

14 Q They're still operating?

12:11PM

15 A I believe so. Yes.

16 Q Okay. So you believe this is an instructional  
17 video related to the Shoutpoint system; is that  
18 right?

19 A Correct.

12:12PM

20 Q And without playing this entire 30-minute video,  
21 do you recall generally --

22 A Can you raise that up, let me see it a little?

23 Q Sure. Let me flip this around.

24 Do you recall --

12:12PM

25 A You want to let it play a little bit?

1 Q Sure.

2 A Yes. That's Shoutpoint.

3 (Video is played)

4 Q Let's pause it for a moment there at 1:25. What  
12:13PM 5 are the audio files that you're talking about  
6 there?

7 A The prerecorded message.

8 Q So these are instructions on how to set up an  
9 automated dialing campaign that will play a  
12:14PM 10 prerecorded message when somebody answers the  
11 phone?

12 A Correct.

13 Q Is this video do you believe a full set of  
14 instructions on how to set up such a campaign  
12:14PM 15 under the Shoutpoint system?

16 A I think so.

17 Q And you currently use the Technologic or dialer.T0  
18 platform, but does that platform allow you to  
19 place the calls in the same manner as they are  
12:14PM 20 through the Shoutpoint platform?

21 A It's an entirely different platform, but  
22 essentially the functions are the same.

23 Q So is there any -- other than the functionality of  
24 it, the design, the way it looks, are there any  
12:14PM 25 significant differences in the tasks that you



1 could accomplish either with a Shoutpoint platform  
2 or the Technologic platform?

3 A The end result is still the same on both.

4 Q The person who receives the call wouldn't know any  
5 difference, would they?

6 A No, sir.

7 Q Did the Shoutpoint platform have functionality to  
8 be set up as a predictive dialer as well?

9 A Yes.

10 Q And were the lists of phone numbers uploaded in  
11 the same manner, essentially, as they are with the  
12 Technologic platform?

13 A Essentially, but I think I have instructions on  
14 this system showing you how to do that. On  
15 Shoutpoint, uploading the list is the same whether  
16 you're using the predictive dialer or the regular  
17 dialer.

18 Q Both of these systems are designed to place -- to  
19 allow someone to place a high volume of telephone  
20 calls in a short period of time?

21 A Yes, sir.

22 Q Much quicker than it would take a human being to  
23 individually dial each phone number with their  
24 fingers --

25 A Correct.

1 Q -- correct?

2 A Correct.

3 Q And that is done through the use of technology  
4 which takes a list and calls large numbers of --

12:16PM

5 excuse me -- a large number of phone numbers in a  
6 very short period of time either randomly or  
7 sequentially through the list?

8 A Correct.

9 Q Okay. Let's move on to the second video, the

12:17PM

10 second URL that's listed in the email marked as  
11 Exhibit 7. This one is called *How to extract data*  
12 *from an existing campaign*. I'll start to play at  
13 the beginning, and then I'll pause it, and you can  
14 tell me if this sounds like your voice.

12:17PM

15 (Video is played)

16 Q Is that your voice?

17 A Yes, sir.

18 Q And did you make this video?

19 A I did.

12:17PM

20 Q And do you recall what exactly you were attempting  
21 to instruct your users in making this video?

22 A I do.

23 Q Could you tell me about that, please?

24 A Downloading data from an existing campaign.

12:17PM

25 Q What sort of data?

1 A So your dial list. Our clients own their own dial  
2 lists, so we don't, and they have the right to  
3 extract them and utilize them for whatever they're  
4 going to do outside of our system.

12:18PM 5 Q Aren't those clients providing you with that list  
6 in the first place to be uploaded into the system?

7 A Yes. They own it. So we don't -- there are some  
8 dialer platforms that do not allow you to extract  
9 your own data once you've uploaded it. And they  
10 own that list. They have a right to it. So they  
11 need the ability to download it. That's why we  
12 have the video.

13 Q Are you saying just a list of numbers or the  
14 results of the calls to the list?

12:18PM 15 A Actually, both. But for this instance, it's just  
16 the list of numbers that they're making calls to.

17 Q So just a way of pulling back out the data that's  
18 been uploaded into there in the first place?

19 A Correct.

12:18PM 20 Q There are a couple of other websites that you can  
21 see on the screenshot that you've recorded here?

22 A Yes, sir.

23 Q RinglessCalls.com, what is that website?

24 A RinglessCalls.com is our website for ringless  
12:19PM 25 calls. So they are non-phone call phone calls.

1           What we do is we take a prerecorded message, and  
2           we will send it to your cell phone via the IP  
3           address. It's a server-to-server data drop. And  
4           then we drop it into the cell phone's back end,  
12:19PM 5           and that's how it works.

6       Q   And then, there's another link below that,  
7           ZenTexter.com. What is that?

8       A   It's just a URL that we have that we push people  
9           over to BizTexter.

12:19PM 10      Q   So this is a way of offering other services or  
11           referrals people could be looking for?

12      A   Correct.

13      Q   Below that there is a phone number, (800)306-6383?

14      A   Correct.

12:19PM 15      Q   Where does that number lead to?

16      A   My cell phone.

17      Q   So that's a number for people to call for support  
18           or questions?

19      A   Yes, sir.

12:19PM 20      Q   And when you made this video, were you using the  
21           Shoutpoint system or the Technologic system?

22      A   You have to continue for me to see, because I have  
23           several videos for different platforms.

24      Q   Okay. I'll start it up again.

25                                (Video is played)

1 A So this is the dialer.T0.

2 Oh. Let's see.

3 (Video is played)

4 A Yeah, dialer.T0.

12:20PM 5 Q When you showed the login on the video, that was  
6 you doing the typing?

7 A It was.

8 Q You typed in Skip Montes, Jr. Is that another  
9 name you go by?

12:20PM 10 A It's my demo site. Yeah, I needed something so  
11 that I didn't show a client's login.

12 Q Well, I guess I'm just asking, is Skip like a  
13 nickname that you sometimes go by, or is that  
14 somebody else?

12:21PM 15 A No. That's me.

16 Q So you are actually Michael Montes, Jr.?

17 A I am.

18 Q Anything else in particular about this video we  
19 haven't discussed, as far as what's shown on the  
12:21PM 20 rest of it?

21 A No. You can learn how to download your data, if  
22 you want to continue.

23 Q Let's move on to the third video that is -- third  
24 URL that's listed on the email marked as  
12:21PM 25 Exhibit No. 7. This one is called *How to adjust*

1       *for time zones.* Let me play a little bit, and  
2       then we'll confirm that this is your voice.

3                       (Video is played)

4       Q   Is that your voice?

12:21PM

5       A   Yes, sir.

6       Q   And did you also make this video?

7       A   I did.

8       Q   And this appears to be reflecting the dialer.T0  
9       system?

12:22PM

10      A   Yes, sir.

11      Q   And what exactly were you attempting to instruct  
12      people in making this video?

13      A   So customers don't want to call somebody, let's  
14      say that -- no matter who they are, politician or

12:22PM

15      sales, they don't want to call somebody at  
16      7:00 P.M. Eastern while it's 4:00 P.M. Pacific,  
17      but they want to do 7:00 P.M. Pacific. So our  
18      system allows to adjust for time zone priority,  
19      which means that I can make sure that any calls  
20      that are made would go out at 7:00 P.M. in each  
21      time zone.

12:22PM

22               So it's a four-hour campaign, minimum,  
23      because it has to start in the east at 7:00, and  
24      then it goes to Central, and then Mountain, and  
25      then Pacific, when it becomes 7:00 P.M. in each of

12:22PM

1 those time zones. Whereas, if you didn't do that,  
2 you started it at 7:00 Eastern, that means it's  
3 dialing at the same time at 4:00 Pacific, 5:00  
4 Mountain, 6:00 Central.

12:23PM

5 Q Do you believe there's anything else that's  
6 reflected in this video?

7 A No. That's it.

8 Q And each of these three videos we've looked at so  
9 far, are they available on the Autodialer123.com  
10 website as you mentioned earlier?

12:23PM

11 A Yes.

12 Q Okay. Then moving on to the fourth URL that's  
13 listed in the email that was marked as  
14 Exhibit No. 7, this is a video entitled *How to*

12:23PM

15 *load data in the data library*. Again, I'll play  
16 the first few seconds of it to confirm that it is  
17 your voice.

18 (Video is played)

19 Q Is that your voice that we were listening to?

12:24PM

20 A Yes, sir.

21 Q And did you make this video as well?

22 A I did.

23 Q And this is also on the dialer.T0 system?

24 A Correct.

12:24PM

25 Q So that Dialerleads.com URL just directs you to

1 the point where you log into their system?

2 A Correct.

3 Q And if you recall -- this is a

4 six-minute-and-twenty-second video -- what are you

12:24PM

5 instructing the users how to do in this video?

6 A I believe it's how to install your lead list.

7 Q The list of phone numbers to be dialed?

8 A Correct.

9 Q You said you believed. Should we maybe play a

12:25PM

10 little further so you can confirm that's what it  
11 is?

12 A Sure.

13 (Video is played)

14 A What was the title of this video?

12:25PM

15 Q It's right here, *How to load data in the data*  
16 *library.*

17 A Yeah, that's it. We don't need to listen to it  
18 anymore.

12:25PM

19 Q So this video, if we played it out, would instruct  
20 me, if I am setting up an autodialer telemarketing  
21 sales campaign, and I've got a spreadsheet with  
22 100,000 phone numbers, how to upload all those  
23 numbers in the system to then be dialed?

24 A Correct.

12:25PM

25 Q I'm going to move this ahead to the time stamp



1 1:25 and start it up again briefly and then ask  
2 you a few more questions.

3 (Video is played)

4 Q I'm sorry, I think I went too far. Let's back it  
5 up a little. I'm restarting it from 1:11.

6 (Video is played)

7 Q So forgetting the instructional language that you  
8 were recording there, we're looking at here some  
9 boxes that can be checked. One says *Global DNC*  
10 *check*, and one says *Customer DNC*?

11 A Correct.

12 Q Can you tell me what the relevance of those is?

13 A Yeah. One is -- the global is the federal  
14 do-not-call list. And most of our customers,  
15 because they're political, we tell them don't use  
16 that. In fact, I originally recorded this video  
17 for my client Rosetta Stone. I said, Don't check  
18 DNC because you'll lose all of your people.

19 So with this, you have the ability to either  
20 scrub your list against the federal do-not-call  
21 list and/or the militant list or the customer  
22 list. So if the customer has a campaign that  
23 they've run regularly, and let's say they're  
24 commercial, and in their message it says, Press 9  
25 to be removed from our list, they can press 9, and

1 that customer will be permanently scrubbed from  
2 that particular customer's list.

3 If they -- they have no choice but to scrub  
4 against the militant list when they load their  
12:28PM 5 data. And the militant list is a list we've  
6 compiled over the years of people who are  
7 screamers, just absolutely you don't want to  
8 contact these people.

9 Q When you use the word *screamers*, what do you mean  
12:28PM 10 by that?

11 A People who threaten lawsuits or actually file  
12 lawsuits.

13 Q And where do you obtain the information that this  
14 phone number is one that you should add to that  
12:28PM 15 list?

16 A So customers will send us lists and say, Please  
17 remove these people. And so we don't remove them,  
18 when they do that, we don't remove them from just  
19 one list. We put them in the militant DNC.

12:29PM 20 Q So the militant list that you're talking about is  
21 a list that you maintain for your customers who  
22 are using the dialer.TO platform?

23 A Correct.

24 Q It's not maintained by Technologic?

12:29PM 25 A It is maintained by Technologic. We just add the

1 numbers to their list.

2 Q The list is compiled by you?

3 A Correct.

4 Q Okay. And you were saying the system is set up

12:29PM 5 that if one of your customers calls me, I'm always

6 going to be offered the option to press 9 to not

7 receive further calls in the future?

8 A Assuming that's in their message. Some customers

9 may or may not do it. We don't know because we

12:29PM 10 don't audit their audio files. But we tell

11 everybody to make sure that you have an opt out.

12 Q Well, whether they're telling me to do it or not,

13 the system is set up that if I press 9, it's going

14 to add me onto that specific customer's

12:29PM 15 do-not-call list?

16 A Correct. Right. And so that's the customer DNC.

17 So as a customer, you would have your own bucket

18 of do-not-call lists that you've generated.

19 Q Right. So you really have three do-not-call lists

12:30PM 20 available. There's the federal one maintained by

21 the government, there is your militant list that

22 you maintain, and then each customer would have

23 their own list of people that press 9?

24 A Correct.

12:30PM 25 Q And how do you obtain access to the federal

1 do-not-call list?

2 A Dialer.TO puts it in there from one of their other  
3 customers. But we don't have access to it.

4 Q Okay. Other than instructing customers how to  
12:30PM 5 upload their phone number lists into the system,  
6 is there anything else that you're instructing  
7 them in this video that you recall?

8 A No. That's it. That's it. Just load your list.

9 Q All right. Then, moving on to the fifth video,  
12:31PM 10 the fifth one on the list that is in the email  
11 marked as Exhibit 7. This one is entitled *How to*  
12 *extract report data to migrate*. Again, I'm going  
13 to press play, and we'll verify this is your  
14 voice.

12:31PM 15 (Video is played)

16 Q So again, is that your voice that we're hearing?

17 A It is.

18 Q And did you record this video yourself?

19 A I did.

12:31PM 20 Q Backing up just a little bit here, when you were  
21 at the login screen, it is a separate login for  
22 RainMakerCalls.com and Dialerleads.com?

23 A Correct.

24 Q So the RainMakerCalls.com was the one that was  
12:32PM 25 associated with Shoutpoint, right?

1 A It is.

2 Q So was this a time when you were using both  
3 systems?

4 A It was.

12:32PM 5 Q So any of these videos that are showing the  
6 dialer.T0 system would have been recorded probably  
7 in late 2016 or after?

8 A Probably.

12:32PM 9 Q Which is when you said you switched from  
10 Shoutpoint to dialer.T0?

11 A Probably. Yeah. We might have been using them  
12 earlier, but I might not have done the videos.

13 Q Do you recall if there was a reason why you were  
14 using both? I mean, would you direct certain  
12:33PM 15 clients to one system over the other for any  
16 reason?

17 A I had to learn dialer.T0, and I didn't have  
18 anybody to help me. So it took a while. I mean,  
19 I got it, but it took me a while to learn the  
12:33PM 20 system.

21 Q Okay. So do you recall -- I can play some more if  
22 we need to, but do you recall what it is that  
23 you're instructing your clients how to do in this  
24 video?

12:33PM 25 A What was the title of this?

1 Q *How to extract report data to migrate.*

2 A Correct. So if they wanted to go in and extract  
3 just the answering machine phone numbers, the  
4 phone numbers that bounced off an answering  
12:33PM 5 machine, they could go in and extract that data.

6 If they wanted to get all the busies or no  
7 answers, they could extract that data. Or if they  
8 wanted the whole list, they could extract that.

9 Q So it's basically how they can compile reports,  
12:34PM 10 download reports of the results of the dialing  
11 campaigns that they're conducting?

12 A Correct.

13 Q And it can tell us how many had a live answer, how  
14 many had an answering machine, how many had no  
12:34PM 15 answer, any other types of data that they can --  
16 customers can download?

17 A Correct.

18 Q What are the other types of data that customers  
19 can download?

12:34PM 20 A So you can download an entire report, that will  
21 give you every single phone number and its result.  
22 You could download busies, no answers, bad  
23 numbers, answering machines, live people, people  
24 who hung up before a certain period of time,  
12:34PM 25 people who hung up after a certain period of time.

1 It's segmented, so there's a list of people that  
2 you can download.

3 Q So essentially the results of each call based on  
4 different criteria, depending on what you want to  
5 know?

6 A Correct.

7 Q Anything else that you're instructing in this  
8 video that you're aware of?

9 A No. That's it. It's pretty short.

10 Q Okay. I'm moving on to the next one, which is the  
11 sixth URL list contained in Exhibit 7. This one  
12 is two minutes and ten seconds, entitled *How did I*  
13 *lose data*. So let's start at the beginning of  
14 that again and verify that this is your voice.

15 (Video is played)

16 Q Is that your voice we're listening to?

17 A Yes, sir.

18 Q And did you record this video as well?

19 A I did.

20 Q And do you recall what it is that you're  
21 instructing your customers in this video?

22 A Just answering the question *What happened to my*  
23 *data*.

24 Q So more specifically, what sort of data are people  
25 looking to recover?

1 A So they upload data, and then it's missing, and  
2 what happened is, is they might have put it in a  
3 campaign, and then they deleted it, and they're  
4 wondering what happened to it. Where it was a  
12:36PM 5 problem with a lot of customers calling, going,  
6 Hey, I loaded this database, and then I wanted  
7 to -- I didn't want to load the whole thing, so I  
8 deleted it, and isn't it supposed to go back into  
9 the data library. But the answer is no. Once you  
12:36PM 10 delete it, it's gone. You have to reload it. And  
11 so I explain that in here that stop deleting your  
12 lists because they don't come back.

13 Q Did you commonly make these videos when you would  
14 get a number of questions about the same topics?

12:36PM 15 A Yeah, that's kind of how they all developed. Over  
16 time, I would get a number of phone calls on a  
17 specific subject, and then I'm like, Oh, boy, I  
18 better record a message, so I don't have to keep  
19 taking phone calls.

12:37PM 20 Q Okay. Moving on, then, to the seventh video, the  
21 seventh URL in the list that is contained in  
22 Exhibit No. 7. This is a video entitled *How to do*  
23 *a test call*. So again, we'll start that up and  
24 confirm this is you.

12:37PM 25 (Video is played)



1 Q Is that your voice?

2 A Yes.

3 Q And did you record this video as well?

4 A I did.

12:37PM

5 Q And what were you attempting to instruct people  
6 how to do in this video?

7 A Prior to their launching a call, they have to do a  
8 test call to verify that the audio file that is in  
9 the campaign is actually the audio file they want

12:37PM

10 to launch. We were going through a period of  
11 people who were adding the wrong audio file to  
12 their campaign, and then the candidates were mad,  
13 because they were calling back going, No, no, no,  
14 I recorded two, and that was the wrong one, or

12:38PM

15 this or that. And so we put a stopgap in. I  
16 said, You guys need to do a -- you need to do a  
17 pre-call. You need to hear your message before  
18 you launch it and approve it.

19 Q So this allows you to just put in one single phone  
20 number, like put in your own cell phone to have a  
21 test call made to make sure it sounds the way that  
22 you want it to sound before you're broadcasting it  
23 out to all the other numbers?

12:38PM

24 A Correct. Yeah, we went through a flurry of  
25 candidates, because they would be one word off,

12:38PM

1 and then they would go ahead and record another  
2 message, and the political consultant would put  
3 the wrong one in.

12:39PM

4 Q Backing up to the beginning of the video here, you  
5 were showing the Autodialer123.com home page, and  
6 there's another URL link towards the bottom here,  
7 Emailmylist.com. What is that?

12:39PM

8 A It was a referral to a -- I think it was AWeber.  
9 So AWeber is an email service that if these  
10 clients wanted to do emails, we didn't do them, so  
11 we got that question on a regular basis, so we  
12 decided just to send them out to somebody else.

13 Q Send mass emails to?

14 A Correct.

12:39PM

15 Q Same email to a large number of email addresses at  
16 the same time?

17 A Yeah. We don't do it, but I have an affiliated  
18 agreement with AWeber. So if somebody wants to go  
19 there and do that, they'll pay me a referral fee,  
20 but we didn't actually ever do any bulk email.

12:39PM

21 Q Do you get referral fees by BizTexter?

22 A No. No. I don't know why they don't want to do  
23 it, but.

12:40PM

24 Q Anything else that you're instructing users how to  
25 do in this video?

1 A No, sir.

2 Q Throughout your deposition today, you refer  
3 repeatedly to the political candidate customers,  
4 and I understand that's a decent portion of your  
12:40PM 5 business. Can you give me an estimate, as we sit  
6 here today, for the autodialing telemarketing  
7 campaigns that you do, what percentage of them are  
8 done for political candidates and what percentage  
9 are done for sales purposes?

12:40PM 10 A Well, the political season is over. We do have a  
11 couple of political candidates that are still  
12 doing something with robocalls. So very little.  
13 And we are actually very little on doing robocalls  
14 right now because we're trying to keep people away  
12:40PM 15 from that. So most of our stuff on ringless is  
16 commercial, probably 95 percent of it.

17 Q Let's go back a few years when you were operating  
18 TollFreeZone in 2015. Can you give me an estimate  
19 as to the autodialing campaigns that you helped  
12:41PM 20 set up for your customers, what percentage were  
21 political candidates as opposed to telemarketing  
22 sales?

23 A Every year the bulk of our revenue comes from  
24 political, and we have -- we do have a handful of  
12:41PM 25 commercial people. And back then, we probably

1        were doing a little bit more. We were probably  
2        doing about 30 percent commercial.

3 Q What about 2016; what percentage would you say was  
4 commercial?

5 | A I'd have to say that it was probably about the  
6 | same.

7 | Q 2017?

8 A It dropped off significantly, and we did a lot  
9 of -- a lot more political, a lot less autodials.

10	Q	Is there a reason why it dropped off?
----	---	---------------------------------------

11 A Again, we started migrating people over to  
12 ringless calls.

13 Q So it was a conscious choice in --

14	A Yes.
----	--------

15 | Q -- the direction of your business?

16	A Yes.
----	--------

17 Q Okay. Let's move on, then, the eighth video, the  
18 eighth URL from the list that's contained in  
19 Exhibit No. 7. This one is called *How to start*  
20 *and stop a campaign*. I'll play the first few  
21 seconds of that again.

20       *and stop a campaign.* I'll play the first few  
21       seconds of that again.

22 (Video is played)

23 | Q Is that your voice?

24 | A It is.

25 Q And did you create this video as well?

1 A Yes, sir.

2 Q And what are you instructing your customers how to  
3 do with this video?

4 A To start and stop a campaign.

12:42PM 5 Q Meaning what specifically?

6 A So in this video, I believe I go through the  
7 entire process of, from beginning to end, of  
8 starting a campaign. So from choosing your  
9 database, choosing your Wave file or your audio  
10 file, and setting the time parameters, and then  
11 launching the campaign.

12:43PM

12 Q Okay. Then, moving to the ninth video, the ninth  
13 URL from the list contained in Exhibit No. 7.  
14 This one is called *How to order calls*. Again,  
15 I'll play the beginning, so you can confirm this  
16 is your voice.

12:43PM

17 (Video is played)

18 Q Is that your voice?

19 A It is.

12:43PM

20 Q And did you create this video?

21 A I did.

22 Q And what were you attempting to instruct your  
23 customers in creating this video?

24 A We have a bunch of political people that are not  
25 techies, so they can go to our order form and

12:44PM

1 actually order calls. So we will provide -- we  
2 will do all the legwork. If they send us their  
3 data, their message, their caller ID, we'll set up  
4 the campaign for them.

12:44PM 5 Q Do you charge them like a flat fee to do that?

6 A No. We don't charge any more.

7 Q So you're doing all the setup yourself that they  
8 could do on their own --

9 A Correct.

12:44PM 10 Q -- so they don't have to fiddle with it?

11 A Right.

12 Q Do you have to lot of clients that take advantage  
13 of that service?

14 A Not so much. I mean, I've got a guy in

12:44PM 15 Pennsylvania that I -- you know, he does all the  
16 Republican calls there. He absolutely has to have  
17 me do it for him. He can't -- he can barely email  
18 me.

19 Q Okay. Then, moving on to the last video, the  
12:45PM 20 tenth and final URL that's contained in the list  
21 that's marked as Exhibit No. 7. Now, this one is  
22 a little bit different and quite a bit longer. We  
23 don't have to hear the whole thing, but I do want  
24 to ask you some questions about it.

12:45PM 25 A Sure.

1 Q First of all, just based on the name,  
2 *Elite Marketing Alliance/Millionaire Marketing*  
3 *Machine Autodialer123 training*, do you have any  
4 recollection of why this video was created?

12:45PM

5 A Go ahead and play it, and I'll tell you.

6 Q Okay. This is not your voice at the beginning, I  
7 don't believe.

8 (Video is played)

9 A I got it.

12:45PM

10 Q Do you know whose voice that is?

11 A That is Dana Ehrlich.

12 Q And does that tell you what this video is?

13 A Yeah. I think we were doing a training video to  
14 her people how to provision a call.

12:46PM

15 Q When you say *how to provision a call*, what do you  
16 mean by that?

17 A How to get it running on her system, doing a  
18 training on that.

19 Q Not a single call, but a campaign?

12:46PM

20 A A campaign, yeah.

21 Q Okay. And Elite Marketing Alliance/Millionaire  
22 Marketing Machine, those are telemarketing sales  
23 calls, correct?

24 A Correct.

12:46PM

25 Q These are not political clients?

1 A Not at all.

2 Q And do you know what sort of products they are  
3 selling?

4 A I don't. I don't recall. If I did know, I don't  
5 recall.

12:46PM

6 Q Are you currently doing business with any  
7 customers affiliated with Elite Marketing Alliance  
8 or Millionaire Marketing Machine?

9 A No.

12:46PM

10 Q Is there a reason? Did you choose to stop or --

11 A No. They just never really materialized. I mean,  
12 we did a few of them, but I was -- I remember  
13 being very disappointed that I took the time to do  
14 this with these people and very little came out of  
15 it.

12:47PM

16 Q Do you know when this video was created --

17 A I don't remember.

18 Q -- or when the call took place, the training  
19 session took place?

12:47PM

20 A I don't. I don't.

21 Q I'm going to move this ahead to, we'll start it  
22 at -- okay. I'm starting it up at 8:38.

23 (Video is played)

24 Q Is that your voice?

12:48PM

25 A Yes, sir.



1 Q Okay.

2 (Video is played)

3 Q When you said you're always available to them,  
4 what did you mean by that?

12:48PM

5 A Customer service. So if they are ordering calls  
6 and going through the motions and putting things  
7 in, and they get to a spot where they just get  
8 lost, they can call me, and I can help out.

12:49PM

9 Q And you're always willing to do that for any of  
10 your customers --

11 A Any customer.

12 Q -- having difficulty with the system?

13 A Yeah.

12:49PM

14 Q I'm going to move this ahead to 10 minutes and  
15 26 seconds. We'll start it there.

16 (Video is played)

17 Q First of all, I stopped there at 11:19. What is  
18 the 800Link Press 1 number?

12:50PM

19 A So what these guys were doing is they were pushing  
20 a phone call to another prerecorded message. So  
21 they would call out, and if somebody pressed 1,  
22 our system would then transfer that call, that  
23 live person to 800Link's phone number. So  
24 whatever 800Link number they had, to whatever  
12:50PM 25 back-end message they were playing, which we have

1 no idea because that's -- we ended at the phone  
2 number.

3 So once we transfer it to 800Link, they're  
4 either listening to a message or they're --  
12:51PM 5 they're just listening to a message, I guess. So  
6 that's how that would work.

7 Q So for these Elite Marketing Alliance, Millionaire  
8 Marketing Machine customers, you could not -- they  
9 could not start a dialing campaign until they  
12:51PM 10 provided you with that information?

11 A Yeah, because what I would do is, once they would  
12 send me that information, I would call them and do  
13 an audio -- a video tour, and I would show them  
14 how they're going to upload their data. It made  
12:51PM 15 more sense when it was their stuff in their  
16 account. So I would take the time to show them  
17 how to do that. But I wanted that stuff in my  
18 possession so that I could go through the tutorial  
19 online with a Zoom Video or whatever, GoToMeeting.

12:51PM 20 Q So you said you did the initial setup for them  
21 before they could begin doing their dialing  
22 campaigns?

23 A Right. Yeah. Even though I did a video, they  
24 still needed hand-holding.

12:52PM 25 Q Do you recall for how many people affiliated with

1 Elite Marketing Alliance or Millionaire Marketing  
2 Machine you set up accounts?

3 A I don't recall the exact number, but it wasn't  
4 very many.

12:52PM

5 Q More than ten?

6 A Probably less than five. Again, I felt very  
7 disappointed that we went through this motion, and  
8 nothing really came of it.

9 Q All right. I'm going to move this ahead to --

12:52PM

10 A This was, by the way, the system that I was  
11 screening them on, this was a long time ago,  
12 because that was Jamie's platform.

13 Q Who is Jamie?

14 A What the hell is the name of it? I told you  
15 earlier. It's Shoutpoint.

12:53PM

16 Q So this was through the Shoutpoint platform?

17 A Correct.

18 Q So again, probably sometime before late 2016 when  
19 you switched to Technologic?

12:53PM

20 A Probably 2015, maybe.

21 Q Okay. So I moved the video ahead to one hour,  
22 three minutes and 25 seconds. I'll start play  
23 from there.

24 (Video is played)

12:55PM

25 Q You're talking about here ordering and

1 provisioning calls?

2 A Uh-huh.

3 Q What do you mean by ordering calls?

4 A So what I mean is, again, we wanted them to send  
12:55PM 5 us all of their information the first time, their  
6 leads, their message, their caller ID, their  
7 800Link number, whatever, so we could call them  
8 back and do a GoToMeeting or whatever and show  
9 them how to upload all this stuff.

12:55PM 10 And it's very important that we did the, you  
11 know, the hands-on training because this stuff,  
12 they just didn't get. So it took a while. It  
13 took a lot of phone calls.

14 Q So you were also saying that the information  
12:56PM 15 doesn't always come to you. There's other people  
16 that work here, I think you said. Who were you  
17 referring to?

18 A Oh, I always say that, even though it's just me.  
19 I don't want people to think that I'm a one-man  
12:56PM 20 banana stand.

21 Q Okay. But there was nobody else at that time,  
22 you're saying?

23 A There was nobody else. It's just me.

24 Q So overall, this was intended to be a  
12:56PM 25 comprehensive training video for Elite Marketing

1 Alliance/Millionaire Marketing Machine people as  
2 to how to set up calling campaigns through your  
3 system?

4 A Correct.

12:56PM

5 Q And do you know, the campaigns that they were  
6 using were, were they autodialed campaigns?

7 A They were.

8 Q And were they calling high volumes of numbers in a  
9 very short period of time --

12:56PM

10 A Yes.

11 Q -- from lists that they provided?

12 A Correct.

13 Q And those numbers from called in some random  
14 order?

12:57PM

15 A However we put them in the system, generally they  
16 went out the same day. So if you put them in,  
17 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, blah, blah,  
18 blah, if we loaded it that way, that's how it went  
19 out. We didn't have a randomizer on it.

12:57PM

20 Q So it could be randomized, or it could be just  
21 done in the order --

22 A It's default to send out in the order you send it  
23 with this system, or you could click randomize.

24 Q And you're saying the calls that they were

12:57PM

25 placing, if I answered one of those calls, I was

1 hearing an automated message?

2 A Correct.

3 Q And it would direct me to press 1 if I wanted more  
4 information or something? And from there, it  
12:57PM 5 transfers the call out somewhere else away from --

6 A Correct.

7 Q You don't have any knowledge of what happens after  
8 that?

9 A No.

12:57PM 10 Q Have you ever been affiliated or worked with  
11 somebody located in Oregon? Did you ever have  
12 somebody who worked for you there?

13 A I don't know. Who?

14 MR. LEVIN: I think I'm almost  
12:58PM 15 done. If I can take a break and go into the  
16 other room with Craig, and then we'll come  
17 back and finish up.

18 (A recess is taken)

19 BY MR. LEVIN:

01:17PM 20 Q Mr. Montes, do you recall whether in 2015 and 2016  
21 you were running any call campaigns for  
22 Brian Kaplan or Jerry Maurer?

23 A I don't. I don't. I don't think so. But I don't  
24 remember.

01:17PM 25 Q So you have worked with them in the past, but you

1 don't recall --

2 A No.

3 Q -- any kind of time frame as to when that was?

4 A I don't.

01:18PM

5 Q Is it possible that it was in 2015 and 2016?

6 A It is possible. I couldn't tell you off the top  
7 of my head.

8 Q Do you recall a time frame that -- strike that.

9 In 2015 and/or 2016, were you running call

01:18PM

10 campaigns for Dana Ehrlich or any of her people?

11 A I would -- the only thing I could do is guess, and  
12 if you want a guess, I'll give it to you, but I  
13 don't know -- I couldn't tell you exactly. Did I?  
14 Yes. I did run calls for Dana Ehrlich's team, but  
15 I don't remember when.

01:18PM

16 Q And that's the Elite Marketing  
17 Alliance/Millionaire Marketing Machine, the video,  
18 instructional video we were watching?

19 A Yeah, whatever the video said, yeah.

01:19PM

20 Q So again, you know that you did run call campaigns  
21 for them, but you don't know when?

22 A I don't remember.

23 Q Do you know if you ran any call campaigns for  
24 people selling the 8 Figure Dream Lifestyle  
25 program in 2015 or 2016?

01:19PM

1 A I know I ran them for -- well, I know they were on  
2 our system, but I don't remember what time frame.

3 Q And do you know whether you ran call campaigns for  
4 people selling the Enagic/Water System in 2015 or  
5 2016?

01:19PM

6 A I don't recall, but I know we ran them. They were  
7 on our system.

8 Q Is somebody by the name of Terry Collins  
9 affiliated with any of those businesses?

01:20PM

10 A Unless he works for them directly, no.

11 Q Does that name ring a bell to you?

12 A Yeah, I know Terry.

13 Q How do you know Terry Collins?

14 A He used to sell data to several of the guys. So  
15 he was a data provider.

01:20PM

16 Q Providing lists of phone numbers, for example?

17 A Correct. Yeah. Yeah, he brokered lists for a  
18 couple years.

19 Q Do you ever monitor your clients or customers to  
20 determine whether they are placing calls in  
21 compliance with the Telephone Consumer Protection  
22 Act?

01:20PM

23 A No.

24 Q Do you ever monitor your customers or clients to  
25 determine whether they are placing calls in

01:20PM



1 compliance with the do-not-call list restrictions?

2 A No.

3 Q Have you ever done that sort of monitoring in the  
4 past?

01:21PM

5 A No.

6 Q Why not?

7 A They're the person sending the call out. It's  
8 their responsibility to know those laws. It's  
9 their responsibility to adhere to any

01:21PM

10 requirements. We're just the platform. So  
11 whatever they do, it's on them.

12 Q Have you ever ceased doing business with a client  
13 because you thought that they were misusing your  
14 platform in some way?

01:21PM

15 A Sure. Sure. I know we've done it. I don't know  
16 who, but.

17 Q Can you give me an example of under what sort of  
18 circumstances that has happened?

01:21PM

19 A Well, we had a political client that wanted to run  
20 a call from a person running against them in a  
21 race at 1:00 in the morning, saying that they were  
22 their competitor. It's a dirty world of politics.  
23 Our system doesn't allow that. The reason I found  
24 out, our system only allows you to go from 9:00 to  
01:22PM 25 9:00, 9:00 A.M. to 9:00 P.M. You can't call

1 outside of that in any time zone. The system  
2 won't allow it.

3 And the reason I found out that these guys  
4 wanted to do that is because they called me and  
01:22PM 5 said, Hey, your system won't let me do this.  
6 Well, what are you trying to do? And they told  
7 me. And so we said, Uh-uh. We're not -- you go  
8 find somebody else for that.

9 Q Have you ever ceased doing business with a sales  
01:22PM 10 client, a non-political client because you felt  
11 that they were misusing your platform in some way?

12 A I know we have. I couldn't tell you who it was.

13 Q You don't recall the circumstances of that?

14 A Just whatever it was made me say no.

01:22PM 15 Q Do you recall anything specific about any of those  
16 situations?

17 A I don't. I don't.

18 Q After you found out about the judgment that was  
19 entered against you in the lawsuit filed by the  
01:23PM 20 state of Missouri, did you change your business  
21 practices or procedures in any way?

22 A No.

23 Q When you found out about the fine that was levied  
24 against you in the state of Mississippi, after  
01:23PM 25 that, did you change your business practices or

1 procedures in any way?

2 A Well, we stopped calling both of those states. We  
3 stopped calling Mississippi before that.

4 Q But other than that, did you make any other  
5 changes as a result of those fines or judgments  
6 that were levied against you?

7 A No, because I actually don't know what it was that  
8 they were suing me for, so.

9 In the Missouri case, we didn't have the  
10 money for an attorney. We didn't have money to  
11 pay them. So we just let it go. And the  
12 Mississippi case, I never heard about it until  
13 Mr. Cunningham presented it.

14 Q And again, I know I've already asked you this, but  
15 I just want to be clear, throughout the course of  
16 your deposition, as you've referred to we, you're  
17 talking about you, Michael Montes,  
18 TollFreeZone.com, Incorporated, and MyAdGuys.com,  
19 LLC?

20 A And/or MyAdGuys.com.

21 Q You're not talking about any other individuals  
22 other than yourself?

23 A No.

24 Q Do you still have access to records of calls that  
25 were placed by or on behalf of Brian Kaplan and

1 Jerry Maurer when they were doing business with  
2 you?

3 A Probably not, because at the time I probably would  
4 have had them on the Shoutpoint platform, and I  
01:26PM 5 certainly wouldn't -- I don't have access to that  
6 at all.

7 Q You don't have access to any records related to  
8 calls that were placed using your platform when  
9 you were working with Shoutpoint?

01:26PM 10 A No. No. They took my account away.

11 Q But you do have access to calls that were placed  
12 using your platform since you've been working with  
13 Technologic?

14 A I do, assuming that Technologic has retained those  
01:27PM 15 records from that long ago. If it's still there,  
16 I would.

17 MR. LEVIN: Okay. I think that's  
18 all the questions I have.

19 MR. TROST: I've got a few  
01:27PM 20 follow-up clarification questions.

21 EXAMINATION

22 BY MR. TROST:

23 Q Do you, Michael Montes, personally make calls  
24 using an autodialer?

01:27PM 25 A No.

1 Q Have you ever made any calls using an autodialer  
2 during the years 2015, 2016, or 2017?

3 A Not for my company or any company I own or are a  
4 part of.

01:27PM

5 Q And for whom have you made autodialer calls, you  
6 personally?

7 A Nobody. Just, I mean, the clients that get on our  
8 system, they do it, but I don't personally make  
9 any phone calls.

01:28PM

10 Q And there was some discussion or description of  
11 you running call campaigns. Do you recall  
12 questions of that nature?

13 A Yeah. I mean, when people say, Oh, you know, can  
14 you run my call campaign, well, if you send me  
01:28PM 15 your data and your Wave file or your audio message  
16 and your caller ID, I can load them into your  
17 account for you, and I can show you how to do it.  
18 And mostly, that's why I'm on a lot of training  
19 calls because I can take their data and show them  
01:28PM 20 how to do it in their account.

21 Q Then, do you ever move forward from that point and  
22 actually initiate the calls?

23 A I have, but it's their account. It's their data.  
24 It's their message. I have hit send or start.

01:28PM

25 But I'm not making them on my behalf. Most of

1       those clients are, like I said, most of them are  
2       political. With the political guys, I can take  
3       that from beginning to end.

01:29PM

4       Q   And are those the type of campaigns that you're  
5       just talking about, the political campaigns?

6       A   Oh, yeah. Yeah. My mind is mostly political  
7       because that's most of what we do.

8       Q   And in that context, do you run commercial  
9       telemarketing campaigns for commercial clients?

01:29PM

10      A   No, not usually. We will show the customer how to  
11      do it.

12      Q   You do not run them?

13      A   No.

01:29PM

14      Q   With respect to commercial telemarketing  
15      campaigns, do you have any involvement in the  
16      substance of any calls or messages that are placed  
17      through your platform?

18      A   Not usually. They come up with their own scripts.  
19      We have referred customers to third-party  
20      recording artists. So if they have their own  
21      script, but they want somebody to record it, they  
22      can call Debbie Grattan or any of these other  
23      people out there that do voice overs.

01:30PM

24      Q   And have you or your companies for these  
25      telemarketing commercial clients selected the

01:30PM

1 settings or the conditions under which the calls  
2 go out, or is that something that the client  
3 selects?

01:30PM

4 A The client tells us what they're going to do, if  
5 they do tell us, if they are interested in finding  
6 out if that's a possibility. For instance, when  
7 the guy called me and said, We want to send it out  
8 at 1:00 in the morning, no, you can't do that.

01:30PM

9 Q Do you or your companies select what scrubs may be  
10 applied to a client's list of numbers to take out  
11 certain numbers from a campaign?

12 A No. That's up to them.

13 MR. TROST: That's all the  
14 questions I have for you.

01:31PM

15 THE WITNESS: Okay.

16 MR. LEVIN: Couple of follow-up  
17 questions.

18 RE-EXAMINATION

19 BY MR. LEVIN:

01:31PM

20 Q You and your companies provide the platform  
21 through which autodialed telemarketing sales  
22 campaigns can be made, correct?

23 A Correct.

01:31PM

24 Q And you've done that for many clients in the past,  
25 correct?

1 A Correct.

2 Q And some of those clients include Jerry Kaplan --  
3 Jerry Maurer, excuse me, Brian Kaplan, 8 Figure  
4 Dream Lifestyle, Dana Ehrlich, Elite Marketing  
01:31PM 5 Alliance, correct?

6 A Sure. Yep.

7 Q And without you or someone who does the same thing  
8 that you do, they wouldn't be able to place those  
9 high volumes of automated calls sending out  
01:32PM 10 prerecorded messages to a large number of phone  
11 numbers at the same time, correct?

12 A Without a company, a dialer company, correct.

13 Q When your counsel asked you if you ever -- I think  
14 he asked you if you ever provide the text of  
01:32PM 15 messages, prerecorded messages that are made  
16 during some of these autodialed telemarketing  
17 sales calls, and you said not usually. So have  
18 you ever done that in the past that --

19 A Sure.

01:32PM 20 Q -- you've written those scripts for people?

21 A Absolutely. Yeah. Yeah. These politicians, it's  
22 amazing they get voted in because they don't  
23 really know how to write a script. So it's not  
24 uncommon for them to call us and go, Well, we're  
01:32PM 25 not sure what we're going to say, yet, blah, blah,



1       blah, blah. So we'll ask them, What's the gist of  
2       what you're trying to get across? And I'll write  
3       a script for them.

01:33PM

4       Q   Have you ever done that for somebody who was  
5       running a telemarketing sales campaign?

6       A   I might have, but usually they know what they're  
7       going to say. The commercial guys come at us with  
8       their own stuff.

9                   MR. LEVIN: That's all I have.

01:33PM

10                  Thank you.

11                  THE WITNESS: Okay.

12                  MR. TROST: No further questions.

13                  MR. LEVIN: Signature?

14                  MR. TROST: Sure.

01:33PM

15                  MR. LEVIN: You mean he'll review  
16                  it?

17                  MR. TROST: Yeah, he'll review it.

18                  That's fine.

19                  (Discussion off the record)

20       BY MR. LEVIN:

21       Q   Mr. Montes, we're just going back on the record to  
22       confirm, Exhibit No. 7, there are checkmarks  
23       placed next to each of the URL links for the  
24       various videos we were discussing. Did you place  
25       those checkmarks on that exhibit?

01:36PM

1 A Yes, sir, I did.

2 Q So any of the stray pen marks we see on that  
3 exhibit were made by you?

4 A Yes, sir.

01:36PM

5 MR. LEVIN: That's it.

6 (Adjourning at 1:36 p.m.)

7

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1 STATE OF WISCONSIN )  
2 COUNTY OF DANE ) ss.  
3

4 I, Sarah F. Pelletter, a Registered Professional  
5 Reporter and Notary Public in and for the State of  
6 Wisconsin, do hereby certify that the foregoing  
7 deposition of MICHAEL J. MONTES was taken before me  
8 on January 14, 2019, and reduced to writing by me, a  
9 professional court reporter and disinterested person,  
10 approved by all parties in interest and thereafter  
11 converted to typewriting using computer-aided  
12 transcription.

13 I further certify that I am not related to nor  
14 an employee of counsel or any of the parties to the  
15 action, nor am I in any way financially interested in  
16 the outcome of this case.

17 IN WITNESS WHEREOF, I have hereunto set my hand  
18 and affixed my notarial seal of office at Madison,  
19 Wisconsin, this 17th day of January 2019.

20  
21 

22  
23 Notary Public, State of Wisconsin  
My Commission Expires 7/26/2020

24  
25 

## DEPOSITION OF MICHAEL J. MONTES 01/14/2019

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